

WSR 15-19-001
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 15-307—Filed September 2, 2015, 1:27 p.m., effective September 3, 2015]

Effective Date of Rule: September 3, 2015.

Purpose: Amend recreational fishing rules for the Nisqually River.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-310-19000D.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, and 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: An emergency rule is needed to reopen the Nisqually River to fishing as water temperatures in the Nisqually River have returned to near normal conditions. Previously the Nisqually River was closed after 2 p.m. due to unusually high water temperatures that could result in higher than anticipated mortality of caught and released salmon. There is insufficient time to adopt permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: September 2, 2015.

J. W. Unsworth
 Director

REPEALER

The following section of the Washington Administrative Code is repealed effective September 3, 2015:

WAC 220-310-19000D Freshwater exceptions to statewide rules—Puget Sound. (15-263)

WSR 15-19-003
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 15-306—Filed September 2, 2015, 1:45 p.m., effective September 2, 2015]

Effective Date of Rule: September 2, 2015.

Purpose: Amend recreational fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 232-28-61900F [220-310-19000F]; and amending WAC 232-28-619 [220-310-190].

Statutory Authority for Adoption: RCW 77.12.047 and 77.04.020.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: An emergency rule is needed to reopen the Skykomish and Stillaguamish rivers as flows and water temperature in the rivers have responded positively to a change in the weather pattern. Lifting these closures will provide angling opportunity. There is insufficient time to adopt permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: September 2, 2015.

J. W. Unsworth
 Director

NEW SECTION

WAC 220-310-19000J Freshwater exceptions to statewide rules—Puget Sound. Notwithstanding the provisions of WAC 220-310-190, effective immediately until further notice, it is unlawful to violate the following provisions, provided that unless otherwise amended, all permanent rules remain in effect:

(1) Raging River (King Co.) From the mouth upstream closed to all fishing.

(2) Skykomish River (Snohomish Co.) From the mouth upstream to the mouth of the Sultan River, open to fishing. From the mouth of the Sultan River upstream to the Highway 2 Bridge in Gold bar (Big Eddy Access), closed to fishing.

The section around Reiter Ponds remains open from the Gold Bar/Big Eddy Access (Hwy. 2 Bridge) upstream to the confluence of the North and South Forks.

(3) North Fork Skykomish River (Snohomish Co.) From mouth upstream including all tributaries closed to all fishing daily 2:00 p.m. to midnight.

(4) South Fork Skykomish River (Snohomish/King Co.) From Sunset Falls upstream and all tributaries, including the Beckler, Foss, Miller and Rapid rivers and their tributaries closed to all fishing daily 2:00 p.m. to midnight.

(5) Wallace River (Snohomish Co.) From the mouth upstream including all tributaries closed to all fishing.

(6) Stillaguamish River (Skagit/Snohomish Co.) From Marine Drive upstream to the forks. Open to fishing.

(7) Stillaguamish River North and South Forks and all tributaries closed to fishing.

(8) Suiattle River (Skagit Co.) Tributaries Buck, Downey and Sulpher Creeks are closed to fishing.

(9) Samish River (Skagit Co.) From I-5 to headwaters and Friday Creek from the mouth upstream closed to all fishing daily 2:00 p.m. to midnight.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-310-19000F Freshwater exceptions to statewide rules—Puget Sound. (15-278)

**WSR 15-19-004
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 15-300—Filed September 2, 2015, 1:54 p.m., effective September 2, 2015, 1:54 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend recreational fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-310-19500G; and amending WAC 220-310-195.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, and 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Cooler weather and recent precipitation in the Cascades have reduced mid-to-late afternoon water temperatures. Lifting these restrictions will provide angling opportunity. There is insufficient time to adopt permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: September 2, 2015.

J. W. Unsworth
Director

NEW SECTION

WAC 220-310-19500K Freshwater exceptions to statewide rules—Eastside. Notwithstanding the provisions of WAC 220-310-195, effective immediately until further notice, currently open fisheries for game fish in the Yakima River basin are modified as follows:

(1) Ahtanum Creek, including North and Middle Forks: Closed

(2) Little Naches River: Closed

(3) Teanaway River, including West, Middle and North Forks: Closed

(4) Swauk Creek and all tributaries downstream of Williams Creek: Closed from 2:00 p.m. until 12:00 midnight

(5) Williams Creek and all tributaries: Closed

(6) Swauk Creek and all tributaries upstream of Williams Creek: Closed

(7) American River from: a) mouth to Hwy. 410 Bridge downstream of the USFS Hell's Crossing Campground (river mile 5.4), and b) upstream of the Mesatchee Creek Trail crossing at river mile 15.8: Closed

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-310-19500G Freshwater exceptions to statewide rules—Eastside. (15-251)

**WSR 15-19-006
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 15-298—Filed September 2, 2015, 2:23 p.m., effective September 2, 2015, 2:23 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend recreational fishing rules.

Citation of Existing Rules Affected by this Order:
Repealing WAC 220-310-18000V.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, and 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: An emergency rule is needed to reopen the Quilcene River as flows in the river have responded positively to a change in the weather pattern. Coho are now moving in the river and water temperatures have dropped significantly. Environmental conditions now support a return to the regular coho fishing season in Big Quilcene River. There is insufficient time to adopt permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: September 2, 2015.

J. W. Unsworth
Director

REPEALER

The following section of the Washington Administrative Code is repealed

WAC 220-310-18000V Freshwater exceptions to statewide rules—Coastal (15-242)

WSR 15-19-007
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 15-308—Filed September 2, 2015, 2:27 p.m., effective September 2, 2015, 2:27 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend recreational fishing rules.

Citation of Existing Rules Affected by this Order:
Repealing WAC 220-310-18000U and 220-310-19000Y [220-310-18000Y]; and amending WAC 220-310-180.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, and 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Recent rains and cooling temperatures have increased water levels, allowing fish to move more freely upriver and alleviating the need for additional protection. Upper portions of these rivers remain closed due to protect spring/summer Chinook and the potential for falling below normal flows before fall rains are consistent. The department is in the process of adopting permanent rules that are necessary to implement the personal use fishing plans agreed-to with resource comanagers at the North of Falcon proceedings. These emergency rules are necessary to comply with agreed-to management plans, and are interim until permanent rules take effect.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 2.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: September 2, 2015.

J. W. Unsworth
Director

NEW SECTION

WAC 220-310-18000B Freshwater exceptions to statewide rules—Coastal. Notwithstanding the provisions of WAC 220-310-180, effective immediately until further notice, it is unlawful to violate the following provisions, provided that unless otherwise amended, all permanent rules remain in effect:

(1) Bogachiel River:

(a) From mouth to Hwy 101 bridge:

(i) Open.

(ii) Salmon: Daily limit 6 fish, only 1 of which may be an adult.

(b) From Hwy 101 upstream: Closed.

(c) All tributaries except Calawah River: Closed.

(2) Calawah River:

(a) From mouth to Hwy 101 bridge:

(i) Open.
 (ii) Salmon: Daily limit 6 fish, only 1 of which may be an adult.

(b) From Hwy 101 bridge upstream: Closed.
 (c) All tributaries: Closed.

(3) Dickey River:

(a) From the Olympic National Park boundary upstream to the confluence of the East and West forks:

(i) Open.
 (ii) Salmon: Daily limit 6 fish, only 1 of which may be an adult.

(b) From the confluence of the East and West forks upstream: Closed.

(c) All tributaries: Closed.

(4) Quillayute River:

(a) Upstream of the Olympic National Park boundary near the mouth of the Quillayute River:

(i) Open.
 (ii) Salmon: Daily limit 6 fish, up to 3 may be adults, of which only 1 may be a wild adult.

(b) All tributaries except Dickey, Sol Duc, and Bogachiel rivers: Closed.

(5) Sol Duc River

(a) From mouth to concrete pump station at Sol Duc Hatchery:

(i) Open.
 (ii) Salmon: Daily limit 6 fish, up to 3 may be adults, of which only 1 may be a wild adult.

(b) From concrete pump station at Sol Duc Hatchery upstream: Closed.

(c) All tributaries: Closed.

(6) Clearwater River (Jefferson County):

(a) From the mouth to the Snahapish River:

(i) Open.
 (ii) Salmon: Daily limit 6 fish, only 1 of which may be an adult; release wild coho.

(b) From Snahapish River upstream: Closed.

(c) All tributaries: Closed.

(7) Salmon River (Jefferson County):

(a) Outside of Olympic National Park and the Quinault Indian Reservation: Open.

(b) Salmon: Daily limit 6 fish, up to 3 may be adults, of which only 2 may be adult Chinook and only 1 may be a wild adult Chinook; release wild adult coho.

(8) Queets River tributaries, except Clearwater and Salmon rivers: Closed.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-310-18000U Freshwater exceptions to statewide rules—Coastal. (15-227).

WAC 220-310-18000Y Freshwater exceptions to statewide rules—Coastal. (15-250)

Reviser's note: The typographical errors in the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

WSR 15-19-008

EMERGENCY RULES

DEPARTMENT OF

FISH AND WILDLIFE

[Order 15-310—Filed September 2, 2015, 2:51 p.m., effective September 2, 2015, 2:51 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend recreational fishing rules.

Citation of Existing Rules Affected by this Order:
 Repealing WAC 220-310-18500C.

Statutory Authority for Adoption: RCW 77.12.047 and 77.04.020.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: With the recent weather change, river flows and temperature are similar to average fall conditions on the East Fork Lewis and Washougal rivers. These conditions are not expected to change considerably for the rest of the season. There is insufficient time to adopt permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1 [0], Amended 0, Repealed 0 [1].

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: September 2, 2015.

J. W. Unsworth
 Director

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-310-18500C Freshwater exceptions to statewide rules—Southwest. (15-214)

WSR 15-19-009
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 15-313—Filed September 2, 2015, 3:08 p.m., effective September 2, 2015, 3:08 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend recreational fishing rules for coastal salmon.

Citation of Existing Rules Affected by this Order: Repealing WAC 232-28-62000Q; and amending WAC 232-28-620.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.12.045, and 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Sufficient coho quota remains under guidelines for Catch Record Areas 1 through 4 to allow retention of hatchery and wild coho providing additional angling opportunity. There is insufficient time to adopt permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: September 2, 2015.

J. W. Unsworth
 Director

NEW SECTION

WAC 232-28-62000R Coastal salmon—Saltwater seasons and daily limits. Notwithstanding the provisions of WAC 232-28-620, effective immediately until further notice, it is unlawful to violate the provisions below. Unless otherwise amended, all permanent rules remain in effect:

(1) Catch Record Card Area 1: Effective immediately through September 30: Daily limit of 2 salmon, both of which may be a Chinook salmon, release wild coho, except effective beginning 9/4 wild coho may be retained.

(2) Catch Record Card Area 2:

(a) Effective immediately, the Grays Harbor Control Zone is closed. Grays Harbor Control Zone is defined as the

area defined by a line drawn from the Westport Lighthouse (46°53.18' N latitude, 124°07.01' W longitude) to Buoy #2 (46°52.42' N latitude, 124°12.42' W longitude) to Buoy #3 (46°55.00' N latitude, 124°14.48' W longitude) to the Grays Harbor north jetty (46°55.36' N latitude, 124°10.51' W longitude).

(b) Effective immediately through September 30:

(i) Daily limit of 2 salmon, both of which may be a Chinook salmon, release wild coho, except effective beginning 9/4 wild coho may be retained.

(3) Catch Record Card Area 3: Open through September 30: Daily limit of 2 salmon of which not more than one may be a Chinook salmon, plus two additional pink salmon; release wild coho, except effective beginning 9/4, wild coho may be retained.

(4) Catch Record Card Area 4:

(a) Effective immediately until further notice, the waters south of a line from Kydaka Point to Shipwreck Point are closed.

(b) Effective immediately through September 30: Open; daily limit of 2 salmon, one of which may be a Chinook, plus two additional pink salmon; release chum and wild coho, except effective beginning 9/4 wild coho may be retained.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 232-28-62000Q Coastal salmon—Saltwater seasons and daily limits. (15-287)

WSR 15-19-010
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 15-309—Filed September 2, 2015, 3:12 p.m., effective September 2, 2015, 3:12 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend recreational fishing rules for the Nooksack River.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-310-19000I; and amending WAC 220-310-190.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, and 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Nooksack spring Chinook have experienced high prespawn mortality rates and although flows and river temperatures have improved, fishing restrictions remain necessary to protect spring Chinook previously exposed to drought-related stress. There is insufficient time to adopt permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: September 2, 2015.

J. W. Unsworth
Director

NEW SECTION

WAC 220-310-19000K Freshwater exceptions to statewide rules—Puget Sound. Notwithstanding the provisions of WAC 220-310-190, effective immediately until further notice, it is unlawful to violate the following provisions, provided that unless otherwise amended, all permanent rules remain in effect:

(1) The mainstem Nooksack from the Lummi Indian Reservation boundary to the yellow marker at the FFA high school barn in Deming: Open, only one single point barbless hook measuring 1/2" or less from point to shank may be used. It is unlawful to use bait.

(2) North Fork Nooksack from the mouth to North Fork Falls and all tributaries draining into the North Fork Nooksack from the mouth to North Fork Falls: Closed

(3) The Middle Fork Nooksack from mouth to the City of Bellingham Diversion Dam and all tributaries draining into the Middle Fork Nooksack from the mouth to the Diversion Dam: Closed

(4) South Fork Nooksack from the mouth to Skookum Creek: Closed

(5) South Fork Nooksack from Wanlick Creek upstream, including Wanlick Creek and all tributaries: Closed

(6) Mainstem Nooksack from the yellow marker at the FFA high school barn in Deming to the forks: Closed

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-310-19000I Freshwater exceptions to statewide rules—Puget Sound. (15-290)

**WSR 15-19-011
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 15-314—Filed September 2, 2015, 3:15 p.m., effective September 2, 2015, 3:15 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend commercial salmon troll fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-24-04000C; and amending WAC 220-24-040.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.12.045, and 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Sufficient Chinook quota remains for the troll fishery to allow an increase in weekly vessel Chinook limits. These rules are adopted at the recommendation of the Pacific Fisheries Management Council, in accordance with preseason fishing plans. There is insufficient time to adopt permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: September 2, 2015.

J. W. Unsworth
Director

NEW SECTION

WAC 220-24-04000D All-citizen commercial salmon troll. Notwithstanding the provisions of WAC 220-24-040, effective immediately until further notice, it is unlawful to fish for salmon with troll gear or to land salmon taken with troll gear into a Washington port except during the seasons provided for in this section:

(1) Salmon Management and Catch Reporting Areas 1, 2, 3, and that portion of Area 4 west of 125°05'00" W longitude and south of 48°23'00" N latitude, open:

September 4 through September 8, 2015;

September 11 through September 15, 2015;

September 18 through September 22, 2015.

(2) Landing and possession limits:

(a) 40 Chinook and 50 marked coho per boat per each entire open period for Catch Areas 1, 2, 3 and 4.

(b) No vessel may possess, land or deliver more than 40 chinook and 50 marked coho during any open period. The Cape Flattery and Columbia River Control Zones are closed. Mandatory Yelloweye Rockfish Conservation Area is closed. Beginning August 10 the Grays Harbor Control Zone is closed.

(3) Minimum size for Chinook salmon is 28 inches in length. Minimum size for Coho salmon is 16 inches in length. No minimum size for pink, sockeye, or chum salmon, except no chum retention north of Cape Alava, Washington, in August and September. It is unlawful to possess wild coho salmon.

(4) Lawful troll gear is restricted to all legal troll gear with single-point, single-shank barbless hooks.

(5) Fishers must land and deliver their catch within 24 hours of any closure of a fishery provided for in this section, and vessels fishing or in possession of salmon while fishing north of Leadbetter Point must land and deliver their fish within the area and north of Leadbetter Point. Vessels fishing or in possession of salmon while fishing south of Leadbetter Point must land and deliver their fish within the area and south of Leadbetter Point. Vessels in possession of salmon north of the Queets River may not cross the Queets River line without first notifying WDFW by phone at (360) 902-2739 or by email at Douglas.Milward@dfw.wa.gov with area fished, total Chinook and halibut catch on board, and destination. Vessels in possession of salmon south of the Queets River may not cross the Queets River line without first notifying WDFW by phone at (360) 902-2739 or by email at Douglas.Milward@dfw.wa.gov with Area fished, total Chinook and halibut catch on board, and destination.

(6) The Cape Flattery Control Zone is defined as the area from Cape Flattery (48°23'00" N latitude) to the northern boundary of the U.S. Exclusive Economic Zone, and the area from Cape Flattery south to Cape Alava, 48°10'00" N latitude, and east of 125°05'00" W longitude.

(7) Columbia Control Zone - This is defined as an area at the Columbia River mouth, bounded on the west by a line running northeast/southwest between the red lighted Buoy #4 (46°13'35" N. Lat., 124°06'50" W. long.) and the green lighted Buoy #7 (46°15'09' N. lat., 124°06'16" W. long.); on the east, by the Buoy #10 line, which bears north/south at 357° true from the south jetty at 46°14'00" N. lat., 124°03'07" W. long, to its intersection with the north jetty; on the north, by a line running northeast/southwest between the green lighted Buoy #7 to the tip of the north jetty (46°14'48" N. lat., 124°05'20" W. long.), and then along the north jetty to the point of intersection with the Buoy #10 line; and, on the south, by a line running northeast/southwest between the red lighted Buoy #4 and tip of the south jetty (46°14'03" N. lat., 124°04'05" W. long.), and then along the south jetty to the point of intersection with the Buoy #10 line.

(8) Mandatory Yelloweye Rockfish Conservation Area - This is defined as the area in Salmon Management and Catch Reporting Area 3 from 48°00.00' N latitude; 125°14.00' W longitude to 48°02.00' N latitude; 125°14.00' W longitude to 48°02.00' N latitude; 125°16.50' W longitude to 48°00.00' N

latitude; 125°16.50' W longitude and connecting back to 48°00.00' N latitude; 125°14.00' W longitude.

(9) Grays Harbor Control Zone - The area defined by a line drawn from the Westport Lighthouse (46°53.18' N latitude, 124°07.01' W longitude) to Buoy #2 (46°52.42' N latitude, 124°12.42' W longitude) to Buoy #3 (46°55.00' N latitude, 124°14.48' W longitude) to the Grays Harbor north jetty (46°55.36' N latitude, 124°10.51' W longitude).

It is unlawful to fish in Salmon Management and Catch Reporting Areas 1, 2, 3 or 4 with fish on board taken south of Cape Falcon, Oregon; and all fish taken from Salmon Management and Catch Reporting Areas 1, 2, 3, and 4 must be landed before fishing south of Cape Falcon, Oregon.

(10) It is unlawful for wholesale dealers and trollers retailing their fish to fail to report their landing by 10:00 a.m. the day following landing. Ticket information can be telephoned in by calling 1-866-791-1279, or faxing the information to (360) 902-2949, or e-mailing to trollfishtickets@dfw.wa.gov. Report the dealer name, the dealer license number, the purchasing location, the date of purchase, the fish ticket numbers, the gear used, the catch area, the species, the total number for each species, and the total weight for each species, including halibut.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

Reviser's note: The unnecessary underscoring in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-24-04000C All-citizen commercial salmon troll.
(15-287)

WSR 15-19-012
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 15-312—Filed September 2, 2015, 6:40 p.m., effective September 2, 2015, 6:40 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend authorized work times for suction dredging in the gold and fish rules for mineral prospecting and placer mining.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-660-30000C; and amending WAC 220-660-300.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.12.045, and 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of

notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: A lack of snowpack from an unusually warm winter has resulted in drought conditions throughout much of Washington. A healthy snowpack slowly provides water to rivers and streams, helping to sustain fish through the drier summer months. But, with little or no snowpack, flows in many rivers have dropped significantly and water temperatures have increased - conditions that are lethal to fish. In response, the Washington department of fish and wildlife (WDFW) has placed drought-related fishing closures and restrictions on over sixty rivers and streams.

Low water and higher than normal water temperatures are limiting fish movement and making them more susceptible to diseases. In addition, stream flows have fallen low enough to concentrate fish into small areas of refugia where they are highly susceptible to additional stress from disturbance caused by suction dredging. To protect fish life, WDFW is aligning the authorized work times for suction dredging in the gold and fish rules for mineral prospecting and placer mining with drought-related fishing closures or restrictions now in effect. There is insufficient time to adopt permanent rules. As water temperatures and streamflows improve due to changing weather patterns, emergency rule changes for mineral prospecting will be modified to return to permanent rule requirements.

Per permanent rule, work in the wetted perimeter or frequent scour zone is authorized from one-half hour before sunrise to one-half hour after sunset. The daily closures from 2 p.m. to one-half hour after sunset are intended to reduce additional stress to fish from suction dredging during periods of the day when fish are stressed from elevated temperatures. In addition, some streams are closed to suction dredging because of record low flows due to lack of winter snowpack and rainfall. Stream flows have fallen low enough to concentrate fish into small areas of refugia where they are highly susceptible to additional stress from disturbance at these temperatures [which] further reduces survival.

Many of the restrictions placed on various streams under previous emergency rules are repealed in this emergency rule. Lower air temperatures and recent rainfall have resulted in stream flows and water temperatures similar to average fall conditions. Those conditions are not expected to change considerably for the remaining times dredging is authorized under the permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making:

New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: September 2, 2015.

J. W. Unsworth
Director

NEW SECTION

WAC 220-660-30000D Mineral prospecting Notwithstanding the provisions of WAC 220-660-300, effective immediately until further notice, it is unlawful to violate the following provisions, provided that unless otherwise amended, all permanent rules remain in effect:

Asotin County

Asotin Creek and tributaries from mouth to headwaters: Closed to suction dredging.

Chelan County

Wenatchee River from mouth to the Icicle River Road Bridge: Closed to suction dredging.

Icicle River from the mouth to 500 feet downstream of the Leavenworth National Fish Hatchery Barrier Dam: Closed to suction dredging.

Peshastin Creek and all tributaries: Closed daily to suction dredging from 2 PM to one-half hour after official sunset.

Columbia County

Tucannon River (Columbia/Garfield Co.) From Highway 12 Bridge to Cow Camp Bridge: Closed daily to suction dredging from 2 PM to one-half hour after official sunset.

Touchet River (Columbia/Walla Walla Co.) from mouth to the confluence of the North and South forks: Closed daily to suction dredging from 2 PM to one-half hour after official sunset.

(1) North Fork Touchet River from mouth to Spangler Creek: Closed daily to suction dredging from 2 PM to one-half hour after official sunset.

(2) North Fork Touchet River upstream from the confluence of Spangler Creek: Closed to suction dredging.

(3) South Fork Touchet River from mouth to Griffen Fork and above Griffen Fork: Closed to suction dredging.

(4) Wolf Fork Touchet River from mouth to Coates Creek and Robinson Fork: Closed to suction dredging.

Ferry County

Kettle River and all tributaries from Barstow Bridge to headwaters, all portions contained within the United States: Closed to suction dredging.

Garfield County

Tucannon River (Columbia/Garfield Co.) From Highway 12 Bridge to Cow Camp Bridge: Closed daily to suction dredging from 2 PM to one-half hour after official sunset.

Grays Harbor County

Black River (Grays Harbor and Thurston Counties) from the mouth upstream to Black Lake: Closed to suction dredging.

Jefferson County

Queets River and its tributaries including Matheny Creek outside Olympic National Park and the Quinault Reservation: Closed to suction dredging.

King County

Raging River from the mouth upstream: Closed to suction dredging.

Snoqualmie River from the mouth upstream to Snoqualmie Falls: Effective September 1, 2015, closed to suction dredging from 2 PM to one-half hour after official sunset.

South Fork Skykomish River (Snohomish/King Co.) from Sunset Falls upstream and all tributaries, including the Beckler, Foss, Miller and Rapid Rivers and their tributaries: Closed daily to suction dredging from 2 PM to one-half hour after official sunset.

Kittitas County

Little Naches River: Closed to suction dredging.

Teanaway River, including West, Middle and North Forks: Closed to suction dredging.

Swauk Creek and all tributaries downstream from the confluence of Williams Creek: Closed daily to suction dredging from 2 PM to until one-half hour after official sunset.

Williams Creek and all tributaries and Swauk Creek and all tributaries upstream from the confluence of Williams Creek: Closed to suction dredging.

Lewis County

Newaukum River and all tributaries: Closed to suction dredging.

Lincoln County

Spokane River (Spokane/Lincoln Co.) from upstream Boundary at Plese Flats Day Use Area to Idaho State Boundary: Closed daily to suction dredging from 2 PM to one-half hour after official sunset.

Okanogan County

Methow River from County Road 1535 Bridge (lower Burma Rd.) upstream to Weeman Bridge (8 miles upstream of Winthrop): Closed daily to suction dredging from 2 PM to one-half hour after official sunset.

Okanogan River from the Hwy 97 Bridge immediately upstream of the mouth to Zosel Dam: Closed to suction dredging.

Similkameen River from the mouth upstream to Enloe Dam: Closed to suction dredging.

Pend Oreille County

Sullivan Creek and all tributaries from mouth to headwaters: Closed daily to suction dredging from 2 PM to one-half hour after official sunset.

Spokane River tributaries, including Little Spokane River and tributaries (Spokane/Pend Oreille/Stevens Co.) from State Route 25 Bridge upstream to Monroe Street Dam: Closed daily to suction dredging from 2 PM to one-half hour after official sunset.

Skagit County

Sauk River (Skagit/Snohomish Co.) From the confluence with the Suiattle River upstream including North Fork from mouth to North Fork Falls and South Fork from mouth to Elliot Creek: Closed to suction dredging.

Suiattle River Tributaries Buck, Downey and Sulpher Creeks: Closed to suction dredging.

Samish River from I-5 to headwaters and Friday Creek from the mouth upstream: Closed daily to suction dredging from 2 PM to one-half hour after official sunset.

Stillaguamish River (Skagit/Snohomish Co.) from Marine Drive upstream including the North and South Forks and all tributaries: Closed to suction dredging.

Snohomish County

North Fork Skykomish River from mouth upstream including all tributaries: Closed daily to suction dredging from 2 PM to one-half hour after official sunset.

South Fork Skykomish River (Snohomish/King Co.) from Sunset Falls upstream and all tributaries, including the Beckler, Foss, Miller and Rapid Rivers and their tributaries: Closed daily to suction dredging from 2 PM to one-half hour after official sunset.

Wallace River from the mouth upstream including all tributaries: Closed to suction dredging.

Sauk River (Skagit/Snohomish Co.) From the confluence with the Suiattle River upstream including North Fork from mouth to North Fork Falls and South Fork from mouth to Elliot Creek: Closed to suction dredging.

Spokane County

Spokane River (Spokane/Lincoln Co.) from upstream Boundary at Plese Flats Day Use Area to Idaho State Boundary: Closed daily to suction dredging 2 PM to one-half hour after official sunset.

Spokane River tributaries, including Little Spokane River and tributaries (Spokane/Pend Oreille/Stevens Co.) from State Route 25 Bridge upstream to Monroe Street Dam: Closed daily to suction dredging from 2 PM to one-half hour after official sunset.

Stevens County

Spokane River tributaries, including Little Spokane River and tributaries (Spokane/Pend Oreille/Stevens Co.) from State Route 25 Bridge upstream to Monroe Street Dam: Closed daily to suction dredging from 2 PM to one-half hour after official sunset.

Colville River and all tributaries from mouth to headwaters: Closed daily to suction dredging from 2 PM to one-half hour after official sunset.

Thurston County

Black River (Grays Harbor and Thurston Counties) from the mouth upstream to Black Lake: Closed to suction dredging.

Walla Walla County

Walla Walla River from McDonald Road Bridge to Oregon State Boundary: Closed daily to suction dredging from 2 PM to one-half hour after official sunset.

Mill Creek from Bennington Dam to State Line: Closed daily to suction dredging from 2 PM to one-half hour after official sunset.

Whatcom County

Middle Fork Nooksack River from the mouth to the City of Bellingham Diversion Dam and all tributaries: Closed to suction dredging.

North Fork Nooksack River from the mouth to Nooksack Falls and all tributaries: Closed to suction dredging.

South Fork Nooksack River from the mouth to Skookum Creek and from Wanlick Creek to headwaters including Wanlick and all tributaries: Closed to suction dredging.

Yakima County

Ahtanum Creek, including North and Middle Forks:
Closed to suction dredging.
American River: Closed to suction dredging.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-660-30000C Mineral prospecting. (15-303)

**WSR 15-19-013
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 15-311—Filed September 2, 2015, 6:40 p.m., effective September 2, 2015, 6:40 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend work times in the aquatic plants and fish pamphlet for all aquatic plant removal activities except hand pulling.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-660-29000C; and amending WAC 220-660-290.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.12.045, and 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: A lack of snowpack from an unusually warm winter has resulted in drought conditions throughout much of Washington. A healthy snowpack slowly provides water to rivers and streams, helping to sustain fish through the drier summer months. But, with little or no snowpack, flows in many rivers have dropped significantly and water temperatures have increased - conditions that are lethal to fish. In response, WDFW has placed drought-related fishing closures and restrictions on nearly sixty rivers and streams.

Low water and higher than normal water temperatures are limiting fish movement and making them more susceptible to diseases. In addition, stream flows have fallen low enough to concentrate fish into small areas of refugia where they are highly susceptible to additional stress from disturbance caused by aquatic plant removal. To protect fish life, WDFW is aligning the work times for all aquatic plant removal activities except hand pulling with the drought-related fishing closures or restrictions now in effect. There is insufficient time to adopt permanent rules. As water temperatures and streamflows improve due to changing weather patterns, emergency rule changes for aquatic plant removal

activities will be modified to return to permanent rule requirements.

The daily closures are intended to reduce additional stress to fish from aquatic plant removal activities during periods of the day when fish are stressed from elevated temperatures. In addition, some streams are closed to aquatic plant removal activities except hand pulling because of record low flows due to lack of winter snowpack and rainfall. Stream flows have fallen low enough to concentrate fish into small areas of refugia where they are highly susceptible to additional stress from disturbance at these temperatures [which] further reduces survival.

Many of the restrictions placed on various streams under previous emergency rules are repealed in this emergency rule. Lower air temperatures and recent rainfall have resulted in stream flows and water temperatures similar to average fall conditions. Those conditions are not expected to change considerably for the remaining times aquatic plant removal activity is authorized under the permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: September 2, 2015.

J. W. Unsworth
Director

NEW SECTION

WAC 220-660-29000D Aquatic plant removal and control Notwithstanding the provisions of WAC 220-660-290, effective immediately until further notice, it is unlawful to violate the following provisions, provided that unless otherwise amended, all permanent rules remain in effect:

Asotin County

Asotin Creek and tributaries from mouth to headwaters: Closed to all aquatic plant removal activities except hand pulling.

Chelan County

Wenatchee River from mouth to the Icicle River Road Bridge: Closed to all aquatic plant removal activities except hand pulling.

Icicle River from the mouth to 500 feet downstream of the Leavenworth National Fish Hatchery Barrier Dam: Closed to all aquatic plant removal activities except hand pulling.

Peshastin Creek and all tributaries: Closed daily to all aquatic plant removal activities from 2 PM to midnight except hand pulling.

Columbia County

Tucannon River (Columbia/Garfield Co.) From Highway 12 Bridge to Cow Camp Bridge: Closed daily to all aquatic plant removal activities from 2 PM to midnight except hand pulling.

Touchet River (Columbia/Walla Walla Co.) from mouth to the confluence of the North and South forks: Closed daily to all aquatic plant removal activities from 2 PM to midnight except hand pulling.

(1) North Fork Touchet River from mouth to Spangler Creek: Closed daily to all aquatic plant removal activities from 2 PM to midnight except hand pulling.

(2) North Fork Touchet River upstream from the confluence of Spangler Creek: Closed to all aquatic plant removal activities except hand pulling.

(3) South Fork Touchet River from mouth to Griffen Fork and above Griffen Fork: Closed to all aquatic plant removal activities except hand pulling.

(4) Wolf Fork Touchet River from mouth to Coates Creek and Robinson Fork: Closed to all aquatic plant removal activities except hand pulling.

Ferry County

Kettle River and all tributaries from Barstow Bridge to headwaters, all portions contained within the United States: Closed to all aquatic plant removal activities except hand pulling.

Garfield County

Tucannon River (Columbia/Garfield Co.) From Highway 12 Bridge to Cow Camp Bridge: Closed daily to all aquatic plant removal activities from 2 PM to midnight except hand pulling.

Grays Harbor County

Black River (Grays Harbor and Thurston Counties) from the mouth upstream to Black Lake: Closed to all aquatic plant removal activities except hand pulling.

Jefferson County

Queets River and its tributaries including Matheny Creek and the Salmon River outside Olympic National Park and the Quinault Reservation: Closed to all aquatic plant removal activities except hand pulling.

King County

Raging River from the mouth upstream: Closed to all aquatic plant removal activities except hand pulling.

Snoqualmie River from the mouth upstream to Snoqualmie Falls: Effective September 1, 2015, closed daily to all aquatic plant removal activities from 2 PM to midnight except hand pulling.

South Fork Skykomish River (Snohomish/King Co.) from Sunset Falls upstream and all tributaries, including the Beckler, Foss, Miller and Rapid Rivers and their tributaries: Closed daily to all aquatic plant removal activities from 2 PM to midnight except hand pulling.

Kittitas County

Little Naches River: Closed to all aquatic plant removal activities except hand pulling.

Teanaway River, including West, Middle and North Forks: Closed to all aquatic plant removal activities except hand pulling.

Swauk Creek and all tributaries except Williams Creek: Closed daily to all aquatic plant removal activities from 2 PM to midnight except hand pulling. Williams Creek is closed to all aquatic plant removal activities except hand pulling.

Lewis County

Newaukum River and all tributaries: Closed to all aquatic plant removal activities except hand pulling.

Lincoln County

Spokane River (Spokane/Lincoln Co.) from upstream Boundary at Plese Flats Day Use Area to Idaho State Boundary: Closed daily to all aquatic plant removal activities from 2 PM to midnight except hand pulling.

Okanogan County

Methow River from County Road 1535 Bridge (lower Burma Rd.) upstream to Weeman Bridge (8 miles upstream of Winthrop): Closed daily to all aquatic plant removal activities from 2 PM to midnight except hand pulling.

Okanogan River from the Hwy 97 Bridge immediately upstream of the mouth to Zosel Dam: Closed to all aquatic plant removal activities except hand pulling.

Similkameen River from the mouth upstream to Enloe Dam: Closed to all aquatic plant removal activities except hand pulling.

Pend Oreille County

Sullivan Creek and all tributaries from mouth to headwaters: Closed daily to all aquatic plant removal activities from 2 PM to midnight except hand pulling.

Spokane River tributaries, including Little Spokane River and tributaries (Spokane/Pend Oreille/Stevens Co.) from State Route 25 Bridge upstream to Monroe Street Dam: Closed daily to all aquatic plant removal activities from 2 PM to midnight except hand pulling.

Skagit County

Sauk River (Skagit/Snohomish Co.) From the confluence with the Suiattle River upstream including North Fork from mouth to North Fork Falls and South Fork from mouth to Elliot Creek: Closed to all aquatic plant removal activities except hand pulling.

Suiattle River Tributaries Buck, Downey and Sulphur Creeks: Closed to all aquatic plant removal activities except hand pulling.

Samish River from I-5 to headwaters and Friday Creek from the mouth upstream: Closed daily to all aquatic plant removal activities from 2 PM to midnight except hand pulling.

Stillaguamish River (Skagit/Snohomish Co.) from Marine Drive upstream including the North and South Forks and all tributaries: Closed to all aquatic plant removal activities except hand pulling.

Snohomish County

North Fork Skykomish River from mouth upstream including all tributaries: Closed daily to all aquatic plant removal activities from 2 PM to midnight except hand pulling.

South Fork Skykomish River (Snohomish/King Co.) from Sunset Falls upstream and all tributaries, including the Beckler, Foss, Miller and Rapid Rivers and their tributaries:

Closed daily to all aquatic plant removal activities from 2 PM to midnight except hand pulling.

Wallace River from the mouth upstream including all tributaries: Closed to all aquatic plant removal activities except hand pulling.

Sauk River (Skagit/Snohomish Co.) From the confluence with the Suiattle River upstream including North Fork from mouth to North Fork Falls and South Fork from mouth to Elliot Creek: Closed to all aquatic plant removal activities except hand pulling.

Spokane County

Spokane River (Spokane/Lincoln Co.) from upstream Boundary at Plese Flats Day Use Area to Idaho State Boundary: Closed daily to all aquatic plant removal activities from 2 PM to midnight except hand pulling.

Spokane River tributaries, including Little Spokane River and tributaries (Spokane/Pend Oreille/Stevens Co.) from State Route 25 Bridge upstream to Monroe Street Dam: Closed daily to all aquatic plant removal activities from 2 PM to midnight except hand pulling.

Stevens County

Spokane River tributaries, including Little Spokane River and tributaries (Spokane/Pend Oreille/Stevens Co.) from State Route 25 Bridge upstream to Monroe Street Dam: Closed daily to all aquatic plant removal activities from 2 PM to midnight except hand pulling.

Colville River and all tributaries from mouth to headwaters: Closed daily to all aquatic plant removal activities from 2 PM to midnight except hand pulling.

Thurston County

Black River (Grays Harbor and Thurston Counties) from the mouth upstream to Black Lake: Closed to all aquatic plant removal activities except hand pulling.

Walla Walla County

Walla Walla River from McDonald Road Bridge to Oregon State Boundary: Closed daily to all aquatic plant removal activities from 2 PM to midnight except hand pulling.

Mill Creek from Bennington Dam to State Line: Closed daily to all aquatic plant removal activities from 2 PM to midnight except hand pulling.

Whatcom County

Middle Fork Nooksack River from the mouth to the City of Bellingham Diversion Dam and all tributaries: Closed to all aquatic plant removal activities except hand pulling.

North Fork Nooksack River from the mouth to Nooksack Falls and all tributaries: Closed to all aquatic plant removal activities except hand pulling.

South Fork Nooksack River from the mouth to Skookum Creek and from Wanlick Creek to headwaters including Wanlick and all tributaries: Closed to all aquatic plant removal activities except hand pulling.

Yakima County

Ahtanum Creek, including North and Middle Forks: Closed to all aquatic plant removal activities except hand pulling.

American River: Closed to all aquatic plant removal activities except hand pulling.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

Reviser's note: The spelling error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-660-29000C Aquatic plant removal and control.
(15-302)

WSR 15-19-017
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 15-315—Filed September 3, 2015, 2:54 p.m., effective September 7, 2015]

Effective Date of Rule: September 7, 2015.

Purpose: Amend coastal commercial crab fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-52-04400A; and amending WAC 220-52-044.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, and 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Washington department of fish and wildlife permitted gear recovery is allowed by permanent regulation fifteen days following the close of the commercial season. Because of an early fishery closure in the area between Point Chehalis and the Washington/Oregon border, an earlier start to the permitted gear recovery gives participants more time to recover lost gear before weather conditions become prohibitive to safe gear recovery efforts. There is insufficient time to adopt permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: September 3, 2015.

J. W. Unsworth
Director

NEW SECTION

WAC 220-52-04400A Coastal crab fishery—Coastal crab gear recovery permit. Notwithstanding the provisions of WAC 220-52-044, effective September 7 through October 31, 2015, a coastal crab gear recovery permit may be granted by the director or his or her designee for licensed coastal Dungeness crab fishers to recover crab pots belonging to state licensed fishers that remain in the ocean in the coastal waters between the Washington/Oregon border (46°15.00) and Point Chehalis, Washington (46°53.18), including the Columbia River and Willapa Bay. No crab may be retained on any vessel engaged in permitted gear recovery activities or while recovered gear is on board the vessel.

REPEALER

The following section of the Washington Administrative Code is repealed effective November 1, 2015:

WAC 220-52-04400A Coastal crab fishery—Coastal crab gear recovery permit.

WSR 15-19-019
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 15-317—Filed September 3, 2015, 3:29 p.m., effective September 3, 2015, 3:29 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order:
Amending WAC 220-40-027.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, and 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The North of Falcon and rules adoption process was delayed this year due to the longer than expected Willapa Bay Salmon Management Policy development process. The permanent rule was not filed until August 25, 2015. The department is extending the deadline to notify the department of intent to participate in the fishery to provide fishers sufficient time to respond. There is insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: September 3, 2015.

J. W. Unsworth
Director

NEW SECTION

WAC 220-40-02700X Willapa Bay salmon—Fall fishery. Notwithstanding the provisions of WAC 220-44-027:

(1) Effective immediately until further notice, fishers must provide notice of intent to participate by contacting quick reporting by phone, fax or e-mail. Notice of intent must be given prior to 5:00 p.m. on September 4. Fishers must provide notice of intent to participate in 2U on September 16, 17, 18, 19, 20, 21, 22, 27, 28, and 29 by contacting quick reporting by phone, fax, or e-mail. Notice of intent must be given prior to 5:00 p.m. on September 4. Fishers must take department observers when participating in these openings.

(2) Effective immediately through September 7, it is unlawful to fish for salmon in Willapa Bay for commercial purposes or to possess salmon taken from those waters for commercial purposes.

WSR 15-19-020
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 15-316—Filed September 3, 2015, 3:29 p.m., effective September 3, 2015, 3:29 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Columbia River seine fishery emerging commercial fishery.

Citation of Existing Rules Affected by this Order:
Repealing WAC 220-88-05000C, 220-88-06000C, 220-88-07000F, and 220-88-08000C.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.04.130, 77.12.045, and 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Sets two additional days for commercial seine fishing. Catch to date has been lower than expected and Endangered Species Act (ESA) impacts remain available. Clarifies rules to allow sorting of fish to continue after the period concludes. This rule continues to establish an emerging commercial fishery with limited participants using beach or purse seine gear in the Columbia River. This limited entry fishery is established consistent with RCW 77.70.160

and is implemented based on Policy C-3620 which includes guiding principles and a progressive series of actions to improve the management of salmon in the Columbia River basin. The fisheries outlined here are part of a series of actions meant to be progressively implemented in 2013-2016 during the transitional period of the policy. This is the second year that a fishery allowing seine gear in the Columbia River has occurred, and is meant to inform fishery managers in how best to implement such fisheries. The seasons are consistent with the *U.S. v. Oregon* 2008-2017 Interim Management Agreement, commission guidance and the fall Chinook allocation agreement developed through the North of Falcon process. The regulation is consistent with compact action of August 11 and September 2, 2015. There is insufficient time to adopt permanent rules.

Washington and Oregon jointly regulate Columbia River fisheries under the congressionally ratified Columbia River Compact. Four Indian tribes have treaty fishing rights in the Columbia River. The treaties preempt state regulations that fail to allow the tribes an opportunity to take a fair share of the available fish, and the states must manage other fisheries accordingly. *Sohappy v. Smith*, 302 F. Supp. 899 (D. Or. 1969). A federal court order sets the current parameters for sharing between treaty Indians and others. *United States v. Oregon*, Civil No. 68-513-KI (D. Or.), Order Adopting 2008-2017 *United States v. Oregon* Management Agreement (Aug. 12, 2008) (Doc. No. 2546).

Some Columbia River Basin salmon and steelhead stocks are listed as threatened or endangered under the federal ESA. On May 5, 2008, the National Marine Fisheries Service issued a biological opinion under 16 U.S.C. § 1536 that allows for some incidental take of these species in treaty and nontreaty Columbia River fisheries governed by the 2008-2017 *U.S. v. Oregon* Management Agreement. The Washington and Oregon fish and wildlife commissions have developed policies to guide the implementation of such biological opinions in the states' regulation of nontreaty fisheries.

Columbia River nontreaty fisheries are monitored very closely to ensure compliance with federal court orders, the ESA, and commission guidelines. Because conditions change rapidly, the fisheries are managed almost exclusively by emergency rule. Representatives from the Washington (WDFW) and Oregon (ODFW) departments of fish and wildlife convene public hearings and take public testimony when considering proposals for new emergency rules. WDFW and ODFW then adopt regulations reflecting agreements reached.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 4, Amended 0, Repealed 4.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: September 3, 2015.

J. W. Unsworth
Director

NEW SECTION

WAC 220-88-05000D Designation of Columbia River seine fishery as an emerging commercial fishery. (1) The director designates the Columbia River seine salmon fishery as an emerging commercial fishery for which use of a vessel is required. The director has determined a need to limit the number of participants in this fishery.

(2) It is unlawful to fish for, possess, or deliver salmon taken for commercial purposes using beach or purse seine unless the fisher possesses a valid emerging commercial fishery license and a salmon experimental fishery permit for either beach seine or purse seine gear. A violation of this subsection is punishable under RCW 77.15.500, Commercial fishing without a license—Penalty.

NEW SECTION

WAC 220-88-06000D Columbia River seine emerging commercial fishery—Qualifications—Issuance of experimental fishery permits—License fee—Permit conditions. (1) Individuals interested in participating in this fishery must apply for an emerging fishery license.

(a) The first round of experimental fishery permits were drawn randomly from a pool of emerging fishery license applications for Columbia River seine fisheries. Applications were pooled by gear type (i.e. beach seine pool and purse seine pool).

(b) Drawings continued until the number of permits needed was filled for each gear type.

(c) Once drawn, the emerging fishery license and experimental fishery permit will be awarded so long as the applicant meets the qualifications for the license and permit as provided in subsection (2) of this section. Random drawings will continue from this pool of applicants until all permits are filled or the pool of qualified applicants is exhausted.

(d) The department may perform a second round of random drawings if the total number of permits needed is not filled from the applications received from the first round of applicants. Applications for any remaining permits will be accepted until filled.

(e) Alternate permits for each gear type may be drawn. Alternate permits for each gear type may be awarded if needed at the Department's discretion.

(f) For the second round, applicants drawn for an emerging fishery license and experimental fishery permit are asked to respond within seven (7) business days of being notified by the department to accept the permit and purchase the emerging fishery license. At that time the emerging fishery license fee will be due, and the license and permit will be issued by WDFW upon receipt of payment. The department will not issue the emerging fishery license or the experimental fishery permit until payment is received. If an applicant is drawn for

the license and permit and fails to purchase the license and permit within the 7-day period, the department may issue the license and permit to another selected applicant.

(g) The emerging fishery license and experimental fishery permit remains in effect until further notice.

(2) Qualifications: An experimental fishery permit will only be issued to a natural person who has a valid emerging commercial fishery license and who:

(a) Possesses a commercial gillnet salmon license/permit issued by Washington or Oregon for the Columbia River, Columbia River/Willapa Bay or Columbia River/Grays Harbor and can demonstrate by valid Washington or Oregon fish receiving tickets that salmon have been taken in the Columbia River or Columbia River Select Areas within the past two calendar years (2013 and 2014) under that license; or

(b) Can demonstrate by valid Washington or Oregon fish receiving tickets that salmon have been taken in the Columbia River or Columbia River Select Areas by the applicant under a commercial salmon license issued for the Columbia River, Columbia River/Willapa Bay or Columbia River/Grays Harbor within the past two calendar years (2013 and 2014).

(3) Nothing in this section gives preference to 2015 permit holders for issuance of potential future permits.

(4) Experimental fishery permits are not transferable between persons. The permit holder must be present and in possession of a valid experimental fishery permit during seine fishing operations. A violation of this subsection is punishable under RCW 77.15.540, Unlawful use of a commercial fishery license—Penalty.

(5) It is unlawful to violate the conditions of the experimental fishery permit for the Columbia River seine emerging commercial fishery. A violation of this subsection is punishable under RCW 77.15.540, Unlawful use of a commercial fishery license—Penalty.

(6) Experimental fishery permits may be revoked at the discretion of the Director and future permits denied for failure to comply with conditions specified in the permit or violations of other commercial fishing regulations.

Reviser's note: The unnecessary underscoring in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

NEW SECTION

WAC 220-88-07000G Columbia River seine emerging commercial fishery—Season, area, and gear requirements. It is unlawful to fish for salmon for commercial purposes with beach or purse seine gear except as provided in this section:

(1) Season:

(a) Open hours are 6:00 a.m. to 8:00 p.m. through September 11; and 6:30 a.m. to 7:30 p.m. thereafter.

(b) Open days are:

i. Immediately through September 4, 2015

ii. September 8-11, 2015

iii. September 14 and September 16, 2015

iv. September 21 and September 23, 2015

v. September 28 and September 30, 2015

(2) Open area: SMCRA 1B, 1C and upper area of SMCRA 1D thereafter. Lower boundary for seine fishing in Zone 4 (SMCRA 1D) is described as a line from USCG light #10 "Red" on the Oregon shore at Henrici Landing across to a wing jetty on the Washington shore at river mile 90.25).

(3) Gear type: Beach seines or purse seines only. Only one seine net per primary vessel.

(a) Mesh size restricted to a 3.5-inch maximum (inside of knot to outside of knot using hand tension stretched measure).

(b) Net material to consist of 3-strand nylon; twine size \geq #12.

(c) Seines may include a bunt of 1.0-2.0 inch knotless mesh.

(d) Net length not to exceed 200 fathoms (NOT including associated lead nets). Net depth not to exceed 200 meshes (approximately 50 feet)

(e) Seine and lead lines may not be connected. Lead nets must be retrieved daily.

(f) No restrictions on corkline, leadline or use of stringers and slackers.

(g) A chafing strip panel consisting of non-monofilament webbing (such as nylon seine web or polyethylene trawl web) is allowed on bottom of net; maximum panel depth is 5-feet. Chafing mesh not to exceed 3.5-inch stretched measure for beach and 5-inch stretched measure for purse. There are no restrictions associated with hangings used to connect the net to the chafing panel or the net or chafing panel to the leadline or corkline.

(h) Red corks are required at 25-fathom intervals and red corks must be in contrast to the corks used in the remainder of the net.

(i) Lead net (optional for both gear types). Only one lead net is allowed per fishing operation. Lead nets may not exceed 100 fathoms in length. Lead nets may be constructed of 3-strand nylon webbing, twine size \geq #12, \leq 3.5-inch mesh size (inside of knot to outside of knot using hand tension stretched measure) OR nylon or cotton webbing with mesh size \geq 14-inches. Lead nets may not be vertically slackened. Seine net and lead net may not be connected. Lead nets must be retrieved daily.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

NEW SECTION

WAC 220-88-08000D Columbia River seine emerging commercial fishery—Allowable possession and sales—Catch handling requirements. (1) Allowable possession and sales: Adipose or left ventral fin-clipped Chinook, adipose-clipped coho, pink and sockeye salmon and shad. Subject to IFQs as defined on individual permits and fishery regulations, all legally-caught salmon must be landed and sold.

(2) Handling of catch: Hand sorting or use of a knotless dip net for sorting is required. All fish must be sorted and/or

released prior to removing entire seine from water. Dry sorting not permitted.

(3) Sort time not to exceed 75 minutes.

(i) Beach seine - defined as the elapsed time from when the outer towed end of the net first contacts the shore or block until the net is emptied of fish.

(ii) Purse Seine - defined as the elapsed time from when all rings are pursed and out of the water until the net is emptied of fish.

(iii) Sorting may continue after the fishing period concludes.

(4) Observer Program - Agency observers must be present during all fishing operations

(5) 24-hour quick-report required pursuant to WAC 220-69-240.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 220-88-05000C Designation of Columbia River seine fishery as an emerging commercial fishery. (15-255)

WAC 220-88-06000C Columbia River seine emerging commercial fishery—Qualifications—Issuance of experimental fishery permits—License fee—Permit conditions. (15-255)

WAC 220-88-07000F Columbia River seine emerging commercial fishery—Season, area, and gear requirements. (15-255)

WAC 220-88-08000C Columbia River seine emerging commercial fishery—Allowable possession and sales—Catch handling requirements. (15-255)

Reasons for this Finding: Chinook brood stock collection efforts at the Hoodspport Hatchery is well behind the goal. The closure of the salmon fishery contained within the Hoodspport Hatchery Zone is necessary in order to fulfill brood stock collection requirements. The salmon fishery may reopen if brood stock collection efforts indicate the goal will be met. There is insufficient time to adopt permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: September 4, 015 [2015].

J. W. Unsworth
Director

NEW SECTION

WAC 220-56-12400P Seasons and areas—Hoodspport Hatchery. Notwithstanding the provisions of WAC 220-56-124, effective September 8, 2015, until further notice, all waters of the Hoodspport Hatchery Zone are closed to salmon fishing, excluding the ADA-access site at the Hoodspport Salmon Hatchery.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

WSR 15-19-024

EMERGENCY RULES

DEPARTMENT OF

FISH AND WILDLIFE

[Order 15-318—Filed September 4, 2015, 2:58 p.m., effective September 8, 2015]

Effective Date of Rule: September 8, 2015.

Purpose: Amend recreational fishing rules.

Citation of Existing Rules Affected by this Order: Amending WAC 220-56-124.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.12.045, and 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

WSR 15-19-028

EMERGENCY RULES

DEPARTMENT OF

FISH AND WILDLIFE

[Order 15-320—Filed September 8, 2015, 4:30 p.m., effective September 9, 2015, 5:00 a.m.]

Effective Date of Rule: September 9, 2015, 5:00 a.m.

Purpose: Amend commercial fishing rules for Puget Sound salmon.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-47-50100U.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.12.045, and 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Effective 11:59 p.m. September 8, 2015, regulatory control in Areas 7 and 7A is relinquished by the Fraser River Panel under the Pacific Salmon Commission. Under agreement by the Washington department of fish and wildlife for the state of Washington and the treaty Indian tribes of western Washington, the all citizens reef net fishery begins following relinquishment of regulatory control by the Fraser River Panel. There is insufficient time to adopt permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: September 8, 2015.

Nate Pamplin
for J. W. Unsworth
Director

NEW SECTION

WAC 220-47-50100U Puget Sound all-citizen commercial salmon fishery—Open periods. Notwithstanding the provisions of Chapter 220-47 WAC, effective 5:00 a.m. September 9, 2015, until further notice, it is unlawful to take, fish for, or possess salmon taken for commercial purposes in Puget Sound Salmon Management and Catch Reporting Areas except in accordance with the open periods, mesh size, areas, species restrictions, notification, and landing requirements set forth in this section, provided that unless otherwise amended, all permanent rules remain in effect:

Areas 7 and 7A:

(1) **Purse Seines** - Closed to Purse Seine gear.

Areas 7 and 7A:

(2) **Gill Nets** - Closed to gill net gear.

Areas 7 and 7A:

(3) **Reef Nets** - Open to reef net gear according to the times, dates, and conditions as prescribed and listed below:

Hours	Dates
5:00 AM - 9:00 PM	Daily September 9 through September 26, 2015

(a) It is unlawful to retain unmarked Chinook, unmarked coho, chum, pink and sockeye.

(b) It is unlawful to retain marked Chinook unless the reef net operator is in immediate possession of a Puget Sound Reef Net Logbook. All retained marked Chinook must be

recorded in the log book in accordance with requirements of WAC 220-47-401.

(c) It is unlawful to fish for salmon with reef net gear in Areas 7 and 7A unless the vessel operator has attended a "Fish Friendly" best fishing practices workshop and is in immediate possession of a department issued certification card.

(4) **"Quick Reporting Fisheries"** All fisheries opened under this section, and any fishery opening under authority of the Fraser Panel for sockeye in Puget Sound Salmon Management and Catch Reporting Areas (WAC 220-22-030), are designated as "Quick Reporting Required" pursuant to WAC 220-47-001.

REPEALER

The following section of the Washington Administrative Code is repealed effective 9:01 p.m. September 26, 2015:

WAC 220-47-50100U Puget Sound all-citizen commercial salmon fishery—Open periods

WSR 15-19-029

EMERGENCY RULES

DEPARTMENT OF AGRICULTURE

[Filed September 9, 2015, 8:35 a.m., effective September 9, 2015, 8:35 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: This rule-making order amends chapter 16-470 WAC by:

(1) Adding municipal solid waste, yard debris, organic feedstocks, organic materials, and agricultural wastes to the list of commodities regulated under the apple maggot quarantine;

(2) Establishing a special permit to allow transportation and disposition of municipal solid waste from the area under quarantine for disposal at a solid waste landfill or disposal facility in the apple maggot and plum curculio pest-free area; and

(3) Establishing a special permit to allow transportation and disposition of yard debris, organic feedstocks, organic materials, and agricultural wastes from the area under quarantine for disposal at a solid waste landfill or treatment at a composting facility in the apple maggot and plum curculio pest-free area.

Citation of Existing Rules Affected by this Order: Amending WAC 16-470-101, 16-470-108, 16-470-111, 16-470-113, 16-470-115, 16-470-118, 16-470-122, 16-470-127, and 16-470-130.

Statutory Authority for Adoption: RCW 17.24.011, 17.24.041.

Other Authority: Chapter 34.05 RCW.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The agency had been working with the solid waste industry and other stakeholders regarding reissuance of a special permit under WAC 16-470-130 when it determined that section applied only to special permits for transport of fresh fruit. Without the emergency adoption of a rule allowing issuance of special permits for transport of municipal solid waste, yard debris, organic feedstocks, organic materials, and agricultural wastes to solid waste disposal facilities or composting facilities in the pest-free area, the affected industry stakeholder(s) would lack alternatives to properly dispose of existing waste, creating storage and disposal back-ups with potential health risks and financial risks to the municipal corporations dependent on their contractors to properly and timely dispose of the waste.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 9, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 1, Amended 9, Repealed 0.

Date Adopted: September 9, 2015.

Derek I. Sandison
Director

AMENDATORY SECTION (Amending WSR 06-14-004, filed 6/22/06, effective 8/1/06)

WAC 16-470-101 Establishing quarantine for apple maggot and plum curculio. Apple maggot (*Rhagoletis pomonella*) and plum curculio (*Conotrachelus nenuphar*) are insects with a larval (worm) stage that develops within fruit. These insects are capable of attacking many fruit crops grown in Washington. Apple maggot is not established in significant portions of the major fruit production areas east of the Cascade Mountains, and plum curculio is not established anywhere in the state. An increased range for either insect would cause decreased environmental quality and economic loss to the agricultural industries of the state by increasing production inputs and jeopardizing foreign and domestic markets.

(1) The director of agriculture, pursuant to chapter 17.24 RCW, has determined that the regulation and/or exclusion of fresh fruits grown or originating from areas infested with apple maggot or plum curculio is necessary to protect the environmental quality and agricultural crops of the state.

(2) The director of agriculture, pursuant to chapter 17.24 RCW, has determined that municipal solid waste originating from areas infested with apple maggot is a host medium for apple maggot and is a "regulated commodity" as provided in WAC 16-470-111. The exclusion of such municipal solid waste from the pest free area is necessary to protect the envi-

ronmental quality and agricultural crops of the state. The transport into and disposition of such municipal solid waste in the pest free area may be allowed by a special permit as provided in WAC 16-470-124(1).

(3) The director of agriculture, pursuant to chapter 17.24 RCW, has determined that yard debris, organic feedstocks, organic materials, and agricultural wastes as defined in WAC 173-350-100 originating from areas infested with apple maggot is a host medium for apple maggot and is a "regulated commodity" as provided in WAC 16-470-111. The exclusion of such waste from the pest free area is necessary to protect the environmental quality and agricultural crops of the state. The transport into and disposition of yard debris, organic feedstocks, organic materials, and agricultural wastes in the pest free area may be allowed by a special permit as provided in WAC 16-470-124(2).

AMENDATORY SECTION (Amending WSR 01-14-075, filed 7/3/01, effective 8/3/01)

WAC 16-470-108 Distribution of infested or damaged fruit is prohibited. Regulated commodities (~~(described)~~) specified in WAC 16-470-111(1) and 16-470-125(2) that are known or found to be infested or damaged by apple maggot or plum curculio may not be distributed, sold, held for sale, or offered for sale, unless the fruit has undergone cold storage treatment, in compliance with WAC 16-470-113 (1)(a) and (b) or 16-470-127 (1)(a) and (b), and the necessary certificate has been issued by the appropriate plant protection organization.

AMENDATORY SECTION (Amending WSR 06-14-004, filed 6/22/06, effective 8/1/06)

WAC 16-470-111 (~~What~~) Commodities (~~are~~) regulated for apple maggot(~~?~~). (1) All fresh fruit of apple (including crab apple), cherry (except cherries that are commercial fruit), hawthorn (haw), pear (except pears that are commercial fruit from California, Idaho, Oregon, Utah, and Washington), plum, prune, and quince are regulated under quarantine for apple maggot.

(2) Municipal solid waste as defined in WAC 173-350-100 is regulated under quarantine for apple maggot. Municipal solid waste from the quarantine areas is a host medium for apple maggot containing or likely to contain those fruits listed under subsection (1) of this section.

(3) Yard debris, organic feedstocks, organic materials, and agricultural wastes as defined in WAC 173-350-100 are regulated under quarantine for apple maggot. Yard debris, organic feedstocks, organic materials, and agricultural wastes from quarantine areas are host mediums for apple maggot containing or likely to contain those fruits listed under subsection (1) of this section.

AMENDATORY SECTION (Amending WSR 01-14-075, filed 7/3/01, effective 8/3/01)

WAC 16-470-113 (~~What do you need~~) Requirements to ship commodities regulated for apple maggot from a state under quarantine into the pest free area for apple maggot(~~?~~). Shipment of (~~(regulated commodities)~~)

fruit, as ~~((described))~~ specified in WAC 16-470-111(1), from an area under quarantine, as ~~((described))~~ specified in WAC 16-470-105(3), into the pest free area for apple maggot, as ~~((described))~~ specified in WAC 16-470-105(1), is prohibited, unless at least one of the following conditions is met:

(1) The shipment is accompanied by an official certificate issued by the plant protection organization of the state of origin evidencing at least one of the following:

(a) The shipment is composed of apples, which ~~((have))~~ has undergone cold treatment for a continuous period of at least ninety days. During this ninety days, the temperature within the storage room must be maintained at thirty-seven and nine-tenths (37.9) degrees Fahrenheit or less.

(b) The shipment is composed of ~~((regulated commodities))~~ fresh fruit specified in WAC 16-470-111(1) other than apples, which ~~((have))~~ has undergone cold treatment for a continuous period of forty days or more. During this forty days, the temperature within the storage room must be maintained at thirty-two (32) degrees Fahrenheit or less.

(c) The shipment is composed of ~~((regulated commodities))~~ fresh fruit specified in WAC 16-470-111(1) from Oregon, Idaho, or Utah, certified by the state of origin in compliance with WAC 16-470-122.

(d) Each lot or shipment consists of repacked fruit, which was grown outside the area under quarantine and has been ~~((identity))~~ identified and maintained ~~((while))~~ separately from any fruit specified in WAC 16-470-111(1) grown within the area under quarantine. For repacked fruit, the certificate must show the following information:

- (i) State in which the fruit was grown;
- (ii) Point of repacking and reshipment;
- (iii) Amount and kind of commodities comprising the lot or shipment; and
- (iv) Names and addresses of the shipper and consignee.

(2) The fruit originated outside the area under quarantine for apple maggot and is a reshipment in original, unopened containers. The containers must each bear labels or other identifying marks evidencing origin outside the area under quarantine.

(3) The fruit is frozen solid.

AMENDATORY SECTION (Amending WSR 06-14-004, filed 6/22/06, effective 8/1/06)

WAC 16-470-115 ~~((Within Washington state, what is required to ship fruit))~~ **Requirements for shipment of regulated commodities from the quarantine area for apple maggot into the pest free area** ~~((for apple maggot from quarantined areas?))~~ **within Washington state.** Shipment of regulated commodities, as ~~((described))~~ specified in WAC 16-470-111, from an area under quarantine, as ~~((described))~~ specified in WAC 16-470-105(2), into the pest free area for apple maggot, as ~~((described))~~ specified in WAC 16-470-105(1), is prohibited, unless one of the following conditions is met:

(1) The shipment of fresh fruit is accompanied by a permit for movement of fruit issued by the department verifying one of the following:

(a) The fruit came from orchards and production sites that are not threatened with infestation; or

(b) The fruit has completed treatment as specified in WAC 16-470-118(3). If records of treatment verifying compliance with conditions specified in WAC 16-470-118(3) are made available to the department, no reinspection is required by the department.

(2) The shipment of fresh fruit is accompanied by a permit issued by the department in fulfillment of WAC 16-470-118 (2) and (3), which specifies conditions for shipment from orchards and production sites that are infested or threatened with infestation.

(3) The shipment of municipal solid waste from the quarantine area to the pest free area for purposes of disposal in a municipal solid waste landfill or appropriate disposal or treatment facility is accompanied by a special permit issued by the department as provided in WAC 16-470-124(1).

(4) The shipment of yard debris, organic feedstocks, organic materials, or agricultural wastes from the quarantine area to the pest free area for purposes of disposal in a municipal solid waste landfill or appropriate treatment or composting facility is accompanied by a special permit issued by the department as provided in WAC 16-470-124(2).

AMENDATORY SECTION (Amending WSR 06-14-004, filed 6/22/06, effective 8/1/06)

WAC 16-470-118 Requirement within Washington state ~~((, what is required))~~ **to ship fruit into, within, or through the pest free area for apple maggot from an orchard or production site that is infested or threatened with infestation** ~~((?))~~. All ~~((regulated commodities))~~ fresh fruit, as ~~((described))~~ specified in WAC 16-470-111(1), from an orchard or production site that is infested or threatened with infestation by apple maggot must be inspected ~~((except graded culls—See subsection (4) of this section))~~ by the department following accepted agency standards.

(1) If ~~((regulated commodities are))~~ the fruit is inspected and found free of apple maggot, the shipment must be accompanied by a permit for movement of fruit issued by the department.

(2) If ~~((regulated commodities are))~~ the fruit is found to be infested with apple maggot, a permit from the department, which specifies conditions for handling and shipment, is required to transport the fruit within or through the pest free area. No permit may be issued under this subsection for transportation of ~~((regulated commodities))~~ fresh fruit found to be infested with apple maggot into the pest free area for apple maggot.

(3) If ~~((regulated commodities are))~~ the fruit is found to be infested with apple maggot, one or more of the following treatments must be performed and verified by the department as specified in WAC 16-470-115 (1)(b) before the ~~((commodity))~~ fruit is moved from area(s) designated or quarantined by the department:

(a) Apples (including crab apples) cold treated as specified in WAC 16-470-113 (1)(a).

(b) ~~((Regulated commodities))~~ Fruit other than apples cold treated as specified in WAC 16-470-113 (1)(b).

(c) Other methods as prescribed in writing by the department.

(4) If the shipment contains graded culls, it must comply with the conditions specified in WAC 16-470-113 (1)(a) ~~(and)~~ or (b), dependent on the category of fruit.

AMENDATORY SECTION (Amending WSR 01-14-075, filed 7/3/01, effective 8/3/01)

WAC 16-470-122 ~~((What are the)) Requirements to ship regulated articles from Oregon, Idaho, or Utah into the pest free area for apple maggot((?))~~. Commercially grown fresh fruit from Oregon, Idaho, or Utah may be shipped into the pest free area for apple maggot if both of the subsections of this section are complied with:

(1) A permit has been agreed to by the plant protection organization of the state of origin and the department. The permits must specify that the plant protection organization of the state of origin has conducted an adequate apple maggot detection program, which includes immediate written notification to the department of detections in counties where apple maggot has not previously been detected.

(2) The plant protection organization of the state of origin certifies that the fruit originated in areas in which apple maggot is not established, was grown in a commercial orchard, and has not been placed under quarantine.

NEW SECTION

WAC 16-470-124 Special permits for solid waste transport and disposition. (1) The director may issue special permits admitting or allowing transportation and distribution of municipal solid waste for disposal at a solid waste landfill or appropriate disposal facility in the pest free area from the area under quarantine established in WAC 16-470-101, subject to conditions and provisions which the director may prescribe to prevent introduction, escape, or spread of the quarantined pests. For purposes of this section "solid waste" and "solid waste landfill" or "disposal facility" refer to solid waste and solid waste facilities regulated under chapters 70.95 RCW and 173-351 WAC by the Washington state department of ecology.

(2) The director may issue special permits admitting or allowing transportation and distribution of yard debris, organic feedstocks, organic materials, or agricultural wastes for treatment at a composting facility in the pest free area from the area under quarantine established in WAC 16-470-101, subject to conditions and provisions which the director may prescribe to prevent introduction, escape, or spread of the quarantined pests. For purposes of this section "yard debris," "organic feedstocks," "organic materials," and "agricultural wastes" or "composting facility" refer to waste and composting facilities regulated under chapters 70.95 RCW and 173-350 WAC by the Washington state department of ecology.

(3) When the owner of the waste identified in subsections (1) and (2) of this section transfers ownership of the waste to a different person receiving the waste for disposal or treatment in the pest free area, both owners must apply for and receive special permits under this section. A special permit to transport will not be issued to the transporting owner unless a special permit is concurrently issued to the receiving facility owner under conditions specified by the director.

AMENDATORY SECTION (Amending WSR 01-14-075, filed 7/3/01, effective 8/3/01)

WAC 16-470-127 ~~((What do you need)) Requirements to ship commodities regulated for plum curculio into Washington((?))~~. Shipment into the state of Washington of regulated commodities described in WAC 16-470-125 from states under quarantine for plum curculio is prohibited, unless one of the following conditions is met:

(1) The shipment is accompanied by an official certificate issued by the plant protection organization of the state of origin evidencing at least one of the following:

(a) The shipment consists of apples, which have undergone cold treatment for a continuous period of at least ninety days. During this ninety days, the temperature within the storage room must be maintained at thirty-seven and nine-tenths ~~((37.9))~~ degrees Fahrenheit or less.

(b) The shipment consists of regulated commodities, which have undergone cold treatment for a continuous period of forty days or more. During this forty days, the temperature within the storage room must be maintained at thirty-two ~~((32))~~ degrees Fahrenheit or less.

(c) Each lot or shipment consists of repacked fruit, which was grown outside the area under quarantine and has been identity maintained while within the area under quarantine. For repacked fruit, the certificate must show the following information:

- (i) State in which the fruit was grown;
- (ii) Point of repacking and reshipping;
- (iii) Amount and kind of commodities comprising the lot or shipment; and
- (iv) Names and addresses of the shipper and consignee.

(2) The fruit originated outside the area under quarantine for plum curculio and is a reshipment in original, unopened containers. The containers must each bear labels or other identifying marks evidencing origin outside the area under quarantine.

(3) The shipment consists of fresh fruit from Utah counties where plum curculio is established and is made in compliance with terms of a permit agreed upon by both the Utah and Washington plant protection organizations.

(4) The shipment consists of fresh fruit from Utah counties where plum curculio is not established, and all of the following conditions are complied with:

(a) The Utah plant protection organization has conducted an adequate plum curculio detection program, which includes immediate written notification to the department of detections in counties where plum curculio has not previously been detected; and

(b) The Utah plant protection organization certifies that the fruit originated in areas in which plum curculio is not established, was grown in a commercial orchard, and has not been placed under quarantine.

AMENDATORY SECTION (Amending WSR 01-14-075, filed 7/3/01, effective 8/3/01)

WAC 16-470-130 Special permits for fresh fruit transport and distribution. The director may issue special permits admitting, or allowing transportation and distribution of, regulated commodities described in WAC 16-470-111(1)

and 16-470-125(2), which would not otherwise be eligible for entry from the area under quarantine, or for transportation or distribution, subject to conditions and provisions which the director may prescribe to prevent introduction, escape or spread of the quarantined pests.

WSR 15-19-033

EMERGENCY RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Developmental Disabilities Administration)

[Filed September 9, 2015, 3:33 p.m., effective September 9, 2015, 3:33 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The department is creating WAC 388-845-2280 What is wellness education?, 388-845-2283 How are my wellness educational materials selected?, 388-845-2285 Are there limits to wellness education?, and 388-845-2290 Who are qualified providers of wellness education? These rules will support the Centers for Medicare and Medicaid Services (CMS) decision below, and support the requirement in 42 C.F.R. 441.510(d).

The Basic Plus waiver and Core waiver both provide home and community-based services to individuals as an alternative to placement in an intermediate care facility for individuals with intellectual disabilities. CMS has approved an amendment that removes personal care services from those waivers, as those services are available through the state's 1915(k) Community First Choice (CFC) program in the medicaid state plan. The CMS amendments also added a new service, wellness education, to both the Basic and Core waivers which provides wellness information to participants designed to assist them in achieving goals identified during their person-centered planning process.

Statutory Authority for Adoption: RCW 71A.12.030, 34.05.350 (1)(b), 42 C.F.R. 441.510(d).

Under RCW 34.05.350 the agency for good cause finds that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this Finding: 42 C.F.R. 431.232(d) requires the state to discontinue medicaid benefits following an initial administrative order that affirms the state's decision to reduce or terminate those benefits. WAC 388-825-0135(2) currently allows continued benefits (including medicaid benefits) past the initial order. This emergency rule is necessary to conform DSHS rules with federal requirements.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 4, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 4, Amended 0, Repealed 0.

Date Adopted: September 8, 2015.

Katherine I. Vasquez
Rules Coordinator

Chapter 388-845 WAC

Wellness Education

NEW SECTION

WAC 388-845-2280 What is wellness education?

Wellness education provides you with monthly individualized printed educational materials designed to assist you in managing health related issues and achieving wellness goals identified in your person-centered service plan that address your health and safety issues. Individualized educational materials are developed by the state, other content providers and the contracted wellness education provider. This service is available on the Basic Plus and Core Waivers.

NEW SECTION

WAC 388-845-2283 How are my wellness educational materials selected? Individualized educational materials are selected for you by the wellness education provider's algorithm and are based on your DDA assessment. Goals, diagnoses, treatments, conditions and other factors identified in your DDA assessment provide the basis for the algorithm to select educational materials for you. These goals, diagnoses, treatments, conditions and other factors may include, but are not limited to the following:

- 1) Diabetes - IDDM;
- 2) Diabetes - NIDDM;
- 3) COPD;
- 4) Cardiovascular disease;
- 5) Rheumatoid arthritis;
- 6) Traumatic brain injury;
- 7) Cerebral palsy;
- 8) Alzheimer's disease;
- 9) Anxiety disorder;
- 10) Asthma;
- 11) Autism;
- 12) Stroke;
- 13) Congestive heart failure;
- 14) Decubitus ulcer;
- 15) Depression;
- 16) Emphysema;
- 17) GERD;
- 18) Hypertension;
- 19) Hypotension;
- 20) Down's syndrome;
- 21) Fragile X syndrome;
- 22) Prader-Willi;

- 23) ADD;
- 24) ADHD;
- 25) Post-traumatic stress disorder;
- 26) Asperger's syndrome;
- 27) Hepatitis;
- 28) Paraplegia;
- 29) Quadriplegia;
- 30) Fetal alcohol syndrome/fetal alcohol effect;
- 31) Epilepsy;
- 32) Seizure disorder;
- 33) Sleep apnea;
- 34) Urinary tract infection;
- 35) Multiple sclerosis;
- 36) Falls;
- 37) Smoking;
- 38) Alcohol abuse;
- 39) Substance abuse;
- 40) Bowel incontinence;
- 41) Bladder incontinence;
- 42) Diabetic foot care;
- 43) Pain daily;
- 44) Sleep issues;
- 45) BMI = or greater than 25;
- 46) BMI less than 18.5;
- 47) Skin care (pressure ulcers, abrasions, burns, rashes);
- 48) Seasonal allergies;
- 49) Edema;
- 50) Poor balance;
- 51) Recent loss/grieving;
- 52) Conflict management;
- 53) Importance of regular dental visits;
- 54) ADA diet;
- 55) Cardiac diet;
- 56) Celiac diet;
- 57) Low sodium diet; and
- 58) Goals.

NEW SECTION

WAC 388-845-2285 Are there limits to wellness education? Wellness education is a once a month service. In the basic plus waiver, you are limited to the aggregate service expenditure limits defined in WAC 388-845-0210.

NEW SECTION

WAC 388-845-2290 Who are qualified providers of wellness education? The wellness education provider must have the ability and resources to:

- 1) Receive and manage client data in compliance with all applicable federal HIPPA regulations, state law and rules and ensure client confidentiality and privacy;
- 2) Translate materials into the preferred language of the participant;
- 3) Ensure that materials are targeted to the participant's assessment and person-centered service plan;
- 4) Manage content sent to participants to prevent duplication of materials;
- 5) Deliver newsletters and identify any undeliverable client/representative addresses prior to each monthly mailing

and manage any returned mail in a manner that ensures participants receive the monthly information; and
6) Contract with ALTSA or DDA to provide this service.

WSR 15-19-035
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 15-319—Filed September 9, 2015, 3:52 p.m., effective September 9, 2015, 3:52 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: To allow the 2015 youth waterfowl season to open as approved by the commission.

Citation of Existing Rules Affected by this Order: Amending WAC 232-28-436.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.04.055, 77.12.047, and 77.12.150.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: This emergency rule allows for the youth waterfowl season to occur for the 2015 season as approved by the commission. This rule is interim until permanent rules take effect.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0 [1], Amended 1 [0], Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: September 9, 2015.

J. W. Unsworth
Director

NEW SECTION

WAC 232-28-43600B 2014-2015 Migratory waterfowl seasons and regulations. Notwithstanding the provisions of WAC 232-28-436, effective immediately, until further notice, the following provisions apply:

(1) DUCKS

(a) Special youth hunting weekend open only to hunters 15 years of age or under (must be accompanied by an adult at least 18 years old who is not hunting): Sept. 19-20, 2015.

(b) Daily Bag Limit: 7 ducks, to include not more than 2 hen mallard, 2 pintail, 3 scaup, 2 canvasback, and 2 redhead statewide; and to include not more than 1 harlequin, 2 scoter, 2 long-tailed duck, and 2 goldeneye in Western Washington.

(c) Possession Limit for Youth Hunting Weekend: 14 ducks, to include not more than 4 hen mallard, 4 pintail, 6 scaup, 4 canvasback, and 4 redhead statewide; and to include not more than 1 harlequin, 4 scoter, 4 long-tailed duck, and 4 goldeneye in Western Washington.

(d) Season Limit: 1 harlequin in Western Washington.

(2) GEESE (except Brant)

(a) Special youth hunting weekend open only to hunters 15 years of age or under (must be accompanied by an adult at least 18 years old who is not hunting): Sept. 19-20, 2015, statewide, except Western Washington Goose Management Areas 2A and 2B.

(b) Daily Bag Limit: 4 Canada geese.

(c) Possession Limit: 8 Canada geese.

WSR 15-19-036

EMERGENCY RULES DEPARTMENT OF FISH AND WILDLIFE

[Order 15-324—Filed September 9, 2015, 5:30 p.m., effective September 9, 2015, 5:30 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order:
Amending WAC 220-40-027.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, and 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Catch of Willapa Bay natural-origin Chinook is significantly higher than anticipated and a modification of the commercial fishery is necessary to help ensure that conservation objectives are met. There is insufficient time to adopt permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: September 9, 2015.

James B. Scott, Jr.
for J. W. Unsworth
Director

NEW SECTION

WAC 220-40-02700Y Willapa Bay salmon—Fall fishery. Notwithstanding the provisions of WAC 220-40-027, effective immediately until 6:01 p.m. September 15, 2015, it is unlawful to fish for salmon for commercial purposes in waters of Willapa Bay.

WSR 15-19-037

EMERGENCY RULES DEPARTMENT OF FISH AND WILDLIFE

[Order 15-323—Filed September 9, 2015, 5:44 p.m., effective September 11, 2015]

Effective Date of Rule: September 11, 2015.

Purpose: Amend recreational salmon fishing rules for Marine Area 4.

Citation of Existing Rules Affected by this Order:
Repealing WAC 232-28-62000Q; and amending WAC 232-28-620.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, and 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Higher than expected coho catches in Area 4 necessitate release of wild coho for the remainder of the season. There is insufficient time to adopt permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: September 9, 2015.

John B. Scott, Jr.
for J. W. Unsworth
Director

NEW SECTION

WAC 232-28-62000R Coastal salmon—Saltwater seasons and daily limits. Notwithstanding the provisions of WAC 232-28-620, effective immediately until further notice, it is unlawful to violate the provisions below. Unless otherwise amended, all permanent rules remain in effect:

(1) **Catch Record Card Area 1:** Through September 30: Daily limit of 2 salmon, both of which may be a Chinook salmon.

(2) **Catch Record Card Area 2:**

(a) The Grays Harbor Control Zone is closed. Grays Harbor Control Zone is defined as the area defined by a line drawn from the Westport Lighthouse (46°53.18' N latitude, 124°07.01' W longitude) to Buoy #2 (46°52.42' N latitude, 124°12.42' W longitude) to Buoy #3 (46°55.00' N latitude, 124°14.48' W longitude) to the Grays Harbor north jetty (46°55.36' N latitude, 124°10.51' W longitude).

(b) Through September 30: Daily limit of 2 salmon, both of which may be a Chinook salmon.

(3) **Catch Record Card Area 3:** Open through September 30: Daily limit of 2 salmon of which not more than one may be a Chinook salmon, plus two additional pink salmon.

(4) **Catch Record Card Area 4:**

(a) The waters south of a line from Kydaka Point to Shipwreck Point are closed.

(b) Through September 30: Open; daily limit of 2 salmon, one of which may be a Chinook, plus two additional pink salmon; release chum and wild coho.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 232-28-62000Q Coastal salmon—Saltwater seasons and daily limits. (15-287)

WSR 15-19-038
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

(Children's Administration)

[Filed September 10, 2015, 8:28 a.m., effective September 10, 2015, 8:28 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The department is changing licensing regulations in WAC 388-148-1320(4) and 388-145-1335(4) to include further instructions on how to proceed with applicants that have a positive TB test result due to latent TB. Latent TB will produce a positive TB test, but latent TB is not contagious, nor does it pose a risk to others. This change will allow the division of licensed resources (DLR) to license these homes that otherwise meet the minimum licensing requirements with a physician's statement.

The department is changing licensing regulations in WAC 388-148-1320(6) and 388-148-1335 [388-145-1335](5) to include a medical exemption to the influenza vac-

ination for foster parents and their household members and agency staff and volunteers. The exemption requires a medical doctor's (MD) statement for a medical reason not to obtain the influenza vaccination because it would result in severe medical consequences to the person and there is no other form of the influenza vaccine that would not cause severe medical consequences. The basis for these provisions is the need to license appropriate and qualified homes to provide care for foster children. The current WAC language impedes DLR in being able to license these otherwise appropriate homes and there are a number of children waiting for homes. There will be no other content or language changes to WAC 388-148-1320 or 388-145-1335.

Citation of Existing Rules Affected by this Order: Amending WAC 388-148-1320 and 388-145-1335.

Statutory Authority for Adoption: RCW 74.15.010, 74.15.030, 74.15.040, 74.15.090, 74.13.031.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: These WAC sections were revised on January 11, 2015, and that revision required all foster parents, their household members over the age of eighteen years, and agency staff or volunteers to submit a negative TB test. There are applicants that receive a positive TB test, but have "latent TB" which is not contagious and does not pose a risk to others. This will allow for these applicants to be licensed.

The revised WAC also required all foster parents, their household members and agency staff or volunteers receive the influenza vaccination in order to be licensed to serve children birth to two years of age. This current WAC revision will allow an exception to the influenza vaccination for foster parents and their household members, agency staff and volunteers with an MD's statement if the vaccine would cause severe medical consequences to the person and there are no other alternate influenza vaccines that would not cause medical issues. This will allow these applicants and agencies to be licensed for birth to two years of age.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 2, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 2, Repealed 0.

Date Adopted: September 9, 2015.

Katherine I. Vasquez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 15-01-069, filed 12/11/14, effective 1/11/15)

WAC 388-145-1335 What additional steps must I complete prior to licensing? (1) You must submit to your licensor a detailed written program description for DLR approval. In the description you must outline:

- (a) Your mission and goals;
- (b) A description of the services you will provide to children and their families;
- (c) Your written policies covering qualifications, duties and ongoing training for developing and upgrading staff skills; and
- (d) A description of your agency's policies and procedures.

(e) For staffed residential facilities in family homes, you must provide a written plan to the child's DSHS worker for the supervision of children in your care if you work outside of your staffed residential home.

(2) You must have a site inspection by your DLR licensor or someone designated by DLR who can verify that your premises have:

- (a) Adequate storage for staff and client files;
- (b) A landline working telephone;
- (c) Adequate space for privacy when interviewing parents and children;
- (d) Room or area used for administrative purposes;
- (e) Adequate space for visitation;
- (f) Appropriate furnishings for the children in your facility; and
- (g) Your license clearly posted (if inspection is for a renewal license).

(3) All facilities described in this chapter, (except for staffed residential homes for five or fewer children), are required to meet the health requirements to receive a certificate of compliance from the Washington state department of health (DOH) and the fire safety requirements from the Washington state patrol fire protection bureau (WSP/FPB).

(4) You, your employees and volunteers are required to submit a negative tuberculosis test or an X ray. If there is a positive TB test, then the individual must submit a physician's statement identifying that there is no active TB or risk of contagion to children in care.

(a) We may grant an exception to the TB test requirement, in consultation with a licensed health care provider.

(b) This exception would require a statement from a licensed health care provider (MD, DO, ND, PA or ARNP) indicating that a valid medical reason exists for not having a TB test.

(5) If you are being licensed to care for children under the age of two, you, your employees and volunteers working in the facility caring for children under the age of two are required to provide documentation verifying you have current pertussis and influenza vaccinations. The department may license you to serve children under the age of two even though you, your employees or volunteers are unable to

obtain an influenza vaccination for medical reasons. In this case, a medical doctor's (MD) statement is required noting that the influenza vaccination would result in severe medical consequences to the person and that there is no other form of the influenza vaccine that would not cause severe medical consequences. All other employees or volunteers must still be vaccinated. We recommend (but do not require) these immunizations for you, your employees and volunteers when you serve children age two and older.

(6) You must have proof of current immunizations for any children living on the premises, not in out-of-home care. We may, in consultation with a licensed health care provider, grant exceptions to this requirement if you have a statement from a licensed health care provider (MD, DO, ND, PA or ARNP).

AMENDATORY SECTION (Amending WSR 15-01-069, filed 12/11/14, effective 1/11/15)

WAC 388-148-1320 When will the department grant me a foster family license? (1) We issue you a license when you and everyone in your household meet the licensing requirements contained in this chapter, and all required documents are in the licensing file.

(2) You and other caregivers over the age of eighteen must:

- (a) Complete first aid training and age-appropriate adult and/or infant CPR (cardiopulmonary resuscitation). Training must be department approved and accredited with nationally recognized standards; and
- (b) Complete HIV/AIDS and bloodborne pathogens training including infection control standards consistent with educational materials published by the department of health, office on HIV/AIDS.

(3) You, your household members and anyone else having unsupervised contact with your foster child(ren) must pass the following background check requirements per chapter 388-06 WAC (This includes people living on any part of your property):

(a) Anyone over the age of sixteen must pass a criminal history check.

(b) Anyone over the age of eighteen must pass an FBI fingerprint check.

(c) Anyone over the age of eighteen must complete a child abuse and neglect registry check from each state they have lived in over the past five years indicating:

(i) No license denials or revocations from an agency that regulates the care of children or vulnerable adults, unless the department determines that you do not pose a risk to a child's health, safety, well-being and long-term stability; and

(ii) No finding or substantiation of abuse or neglect of a child or a vulnerable adult, unless the department determines that you do not pose a risk to a child's safety, well-being, and long-term stability.

(4) You, and your household members over the age of eighteen must submit a negative tuberculosis test or an X-ray, unless you can demonstrate a medical reason prohibiting the TB test, or have had a negative TB test in the previous twelve months. If there is a positive TB test, then the individual must

submit a physician's statement identifying that there is no active TB or risk of contagion to children in care.

(5) You must have proof of current immunizations for any children living on your premises, not in out-of-home care. We may, in consultation with a licensed health care provider, grant exception to this requirement if you have a statement from a licensed health care provider (MD, DO, ND, PA and ARNP).

(6) We recommend that you have pertussis and influenza immunizations. The department will not license you to serve foster children under the age of two, without proof of pertussis and influenza immunizations for all people living in your home. The department may license you to serve children under the age of two even though you or someone in your home is unable to obtain an influenza vaccination for medical reasons. In this case, a medical doctor's (MD) statement is required noting that the influenza vaccination would result in severe medical consequences to the person and that there is no other form of the influenza vaccine that would not cause severe medical consequences. All other persons in the home must still be vaccinated.

(7) Before granting or renewing a license, your licensor will assess your ability to provide a safe home and to provide the quality of care needed by children placed in your home. Your licensor will also determine that you meet training requirements.

(8) Foster children under the care and authority of the department living in your home do not need to obtain a criminal history check, FBI fingerprint check or TB test.

WSR 15-19-040
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 15-321—Filed September 10, 2015, 2:57 p.m., effective September 14, 2015]

Effective Date of Rule: September 14, 2015.

Purpose: Amend commercial fishing rules for sea urchins.

Citation of Existing Rules Affected by this Order: Amending WAC 220-52-073.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, and 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Harvestable surpluses of sea urchin exist in the districts specified to allow for commercial harvest. There is insufficient time to adopt permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: September 10, 2015.

James B. Scott, Jr.
for J. W. Unsworth
Director

NEW SECTION

WAC 220-52-07300S Sea urchins Notwithstanding the provisions of WAC 220-52-073, effective September 14, 2015, until further notice, it is unlawful to take or possess sea urchins taken for commercial purposes except as provided for in this section:

(1) The following areas are open for red sea urchin harvest seven days-per-week: Sea Urchin District 1, District 2, District 3 east of a line projected true north from the shoreline at 123 degrees 48.3 minutes west longitude, and District 4 west of a line projected true north from the shoreline at 123 degrees 52.7 minutes west longitude. It is unlawful to harvest red sea urchins smaller than 3.25 inches or larger than 5.0 inches (size is largest test diameter exclusive of spines).

(2) The following areas are open for green sea urchin harvest seven days-per-week: Sea Urchin District 1, District 2, District 3 east of a line projected true north from the shoreline at 123 degrees 48.3 minutes west longitude, District 4 west of a line projected true north from the shoreline at 123 degrees 52.7 minutes west longitude, District 6, and District 7. It is unlawful to harvest green sea urchins smaller than 2.25 inches (size is largest test diameter exclusive of spines).

(3) The maximum cumulative landing of red or green sea urchins for each weekly fishery opening period is 3,000 pounds of each species per valid designated sea urchin harvest license. It is permissible for all or any fraction of the maximum 3,000 pound total to be harvested during any legal harvest date within any legal harvest area so long as the cumulative total for the fishery week does not exceed the maximum. Each fishery week begins Monday and ends Sunday.

WSR 15-19-041
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 15-322—Filed September 10, 2015, 2:58 p.m., effective September 11, 2015, 6:00 a.m.]

Effective Date of Rule: September 11, 2015, 6:00 a.m.

Purpose: Amend commercial fishing rules for Puget Sound commercial shrimp.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-52-05100J; and amending WAC 220-52-051.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, and 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The 2015 state/tribal shrimp harvest management plans for the Strait of Juan de Fuca and Puget Sound require adoption of harvest seasons contained in this emergency rule. This emergency rule (1) opens the spot shrimp pot "clean up" fishery in Shrimp Management Area 1A, 1C and Catch Areas 23A-E, 23A-S/23D, 23C and 25A with lowered limits to harvest the relatively small amounts of quota remaining; and (2) closes the trawl fishery in Shrimp Management Area 1B/21A-22A as the quota will be reached. There is insufficient time to adopt permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: September 10, 2015.

James B. Scott, Jr.
for J. W. Unsworth
Director

NEW SECTION

WAC 220-52-05100K Puget Sound shrimp pot and beam trawl fishery—Seasons. Notwithstanding the provisions of WAC 220-52-051, effective immediately until further notice, it is unlawful to fish for shrimp for commercial purposes in Puget Sound except as provided for in this section:

(1) Shrimp pot gear:

(a) All waters of Shrimp Management Areas 1A, 1C, 2W, 3 and 6 are open to the harvest of all shrimp species, except:

(i) All waters of the Discovery Bay Shrimp District are closed.

(ii) All waters of Shrimp Management Areas 2W, 6 and Marine Fish/Shellfish Management and Catch Reporting Area (Catch Area) 23A-C/23B and 23A-W are closed to the harvest of spot shrimp.

(iii) Effective immediately, all waters of Shrimp Management Areas 1A and 1C are open to the harvest of spot shrimp until closing at 6:00 p.m. September 14, 2015.

(iv) Effective immediately, all waters of Catch Areas 23A-E, 23A-S/23D and 25A are open to the harvest of all shrimp species until closing for spot shrimp at 6:00 p.m. September 14, 2015.

(v) Effective 6:00 p.m. September 14, 2015, all waters of Catch Areas 23C and 29 are closed to the harvest of spot shrimp.

(b) Effective immediately, until 6:00 p.m. September 14, 2015, it is unlawful for the combined total harvest of spot shrimp by a fisher and/or the fisher's alternate operator to exceed 250 pounds in Shrimp Management Area 1A, or to exceed 150 pounds in Shrimp Management Area 1C, or to exceed 260 pounds in Catch Area 23A-E, or to exceed 90 pounds in Catch Area 23A-S/23D, or to exceed 600 pounds in Catch Area 23C, or to exceed 375 pounds in Catch Area 25A.

(c) It is unlawful to pull shellfish pots in more than one catch area per day.

(d) Only pots with a minimum mesh size of 1 inch may be pulled on calendar days when fishing for or retaining spot shrimp. Mesh size of 1 inch is defined as a mesh opening that a 7/8-inch square peg will pass through, excluding the entrance tunnels, except for flexible (web) mesh pots, where the mesh must be a minimum of 1 3/4-inch stretch measure. Stretch measure is defined as the distance between the inside of one knot to the outside of the opposite vertical knot of one mesh, when the mesh is stretched vertically. There is no size restriction for spot shrimp.

(2) Shrimp beam trawl gear:

(a) Shrimp Management Area 3 (outside of the Discovery Bay Shrimp District, Sequim Bay and Catch Area 23D) is open. Sequim Bay includes those waters of Catch Area 25A south of a line projected west from Travis Spit on the Miller Peninsula.

(b) Effective immediately, until 6:00 p.m. September 19, 2015, those portions of Catch Areas 21A and 22A within Shrimp Management Area 1B are open.

(c) All waters of Catch Area 20A are open.

(3) All shrimp taken under this section must be sold to licensed Washington wholesale fish dealers.

REPEALER

The following section of the Washington Administrative Code is repealed effective 6:00 a.m. September 11, 2015:

WAC 220-52-05100J Puget Sound shrimp pot and beam trawl fishery—Season. (15-301)

WSR 15-19-043
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 15-325—Filed September 10, 2015, 3:49 p.m., effective September 15, 2015, 9:00 p.m.]

Effective Date of Rule: September 15, 2015, 9:00 p.m.

Purpose: Amend rules in the recreational spot shrimp fishery.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-56-32500V and 220-56-32500W; and amending WAC 220-56-325.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, and 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: This regulation is needed to ensure an orderly fishery, manage within court-ordered sharing requirements, and to ensure conservation. The spot shrimp fishery in Marine Areas 4, 5, 6 and 7 West will be closed for the season on September 15, 2015, to protect female spot shrimp during the onset of the egg-bearing period. There is insufficient time to adopt permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 2.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: September 10, 2015.

James B. Scott, Jr.
for J. W. Unsworth
Director

NEW SECTION

WAC 220-56-32500W Shrimp—Areas and seasons. Notwithstanding the provisions of WAC 220-56-325, effective immediately until further notice:

(1) It is unlawful to fish for or possess shrimp taken for personal use in all waters of Marine Areas 6 and 7, except as follows in Marine Area 6 and the portion of Marine Area 7 north of a line from the Biz Point on Fidalgo Island to Cape Saint Mary on Lopez Island, then east of a line projected from the number 2 buoy at the entrance to Fisherman Bay to the

southern tip of Shaw Island, then east of a line projected true north and south from the western tip of Crane Island, then east of a line from Point Doughty on Orcas Island to the bell buoy at the international boundary:

(a) Open to the harvest of all shrimp species except spot shrimp. It is unlawful to possess spot shrimp, and all spot shrimp must immediately be returned to the water unharmed.

(b) It is unlawful to set or pull shrimp gear in waters greater than 200 feet deep.

(2) All waters equal to or less than 150 feet in depth in Marine Areas 8-1, 8-2, 9 and 11 are open to the harvest of all shrimp species except spot shrimp. All spot shrimp caught must be immediately returned to the water unharmed. It is unlawful to set or pull shrimp gear in waters greater than 150 feet deep.

REPEALER

The following section of the Washington Administrative Code is repealed effective 9:00 p.m. September 15, 2015:

WAC 220-56-32500V Shrimp—Areas and seasons. (15-207)

The following section of the Washington Administrative Code is repealed effective October 16, 2015:

WAC 220-56-32500W Shrimp—Areas and seasons.

WSR 15-19-044
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 15-326—Filed September 10, 2015, 3:50 p.m., effective September 10, 2015, 3:50 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend coastal commercial crab fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-52-04400A, 220-52-04400B and 220-52-04500K; and amending WAC 220-52-044.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, and 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: In order to protect crab during the typical fall molting period and to meet the stipulations found in state tribal agreements it is necessary to close the commercial crab fishery. Washington department of fish and wildlife permitted gear recovery is allowed by permanent regulation fifteen days following the close of the commercial season to allow fish and wildlife officers time to enforce rules relative to fishing during the closed season. An earlier start to the permitted gear recovery gives participants more time to recover lost gear before weather conditions become prohibi-

tive to safe gear recovery efforts. There is insufficient time to adopt permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 3.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: September 10, 2015.

James B. Scott, Jr.
for J. W. Unsworth
Director

NEW SECTION

WAC 220-52-04400B Coastal crab fishery—Coastal crab gear recovery permit. Notwithstanding the provisions of WAC 220-52-044:

(1) Effective immediately until 11:59 PM October 31, 2015, a coastal crab gear recovery permit may be granted by the director or the director's designee for licensed coastal Dungeness crab fishers to recover crab pots belonging to state licensed fishers that remain in the ocean in the coastal waters between the Washington/Oregon border (46°15.00) and Point Chehalis, Washington (46°53.18), including the Columbia River and Willapa Bay.

(2) Effective 12:01 am September 21, 2015 until 11:59 PM October 31, 2015, a coastal crab gear recovery permit may be granted by the director or the director's designee for licensed coastal Dungeness crab fishers to recover crab pots belonging to state licensed fishers that remain in the ocean in the coastal waters between the Washington/Oregon border (46°15.00) and the US/Canada border, including the Columbia River, Willapa Bay and Grays Harbor.

(3) No crab may be retained on any vessel engaged in permitted gear recovery activities or while recovered gear is on board the vessel.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-52-04400A Coastal crab fishery—Coastal crab gear recovery permit. (15-315)

The following section of the Washington Administrative Code is repealed effective 11:59 p.m. September 15, 2015:

WAC 220-52-04500K Commercial crab fishery—Seasons and areas—Coastal. (15-295)

The following section of the Washington Administrative Code is repealed effective November 1, 2015:

WAC 220-52-04400B Coastal crab fishery—Coastal crab gear recovery permit.

WSR 15-19-045 EMERGENCY RULES DEPARTMENT OF FISH AND WILDLIFE

[Order 15-327—Filed September 10, 2015, 4:05 p.m., effective September 12, 2015]

Effective Date of Rule: September 12, 2015.

Purpose: Columbia River seine fishery emerging commercial fishery.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-88-05000D, 220-88-06000D, 220-88-07000G, and 220-88-08000D.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.04.130, 77.12.045, and 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Sets six additional days for commercial seine fishing. Catch to date has been lower than expected and Endangered Species Act (ESA) impacts remain available. This rule continues to establish an emerging commercial fishery with limited participants using beach or purse seine gear in the Columbia River. This limited entry fishery is established consistent with RCW 77.70.160 and is implemented based on Policy C-3620 which includes guiding principles and a progressive series of actions to improve the management of salmon in the Columbia River basin. The fisheries outlined here are part of a series of actions meant to be progressively implemented in 2013-2016 during the transitional period of the policy. This is the second year that a fishery allowing seine gear in the Columbia River has occurred, and is meant to inform fishery managers in how best to implement such fisheries. The seasons are consistent with the *U.S. v. Oregon* 2008-2017 Interim Management Agreement, commission guidance and the fall Chinook allocation agreement developed through the North of Falcon process. The regulation is consistent with compact action of August 11, September 2 and 10, 2015. There is insufficient time to adopt permanent rules.

Washington and Oregon jointly regulate Columbia River fisheries under the congressionally ratified Columbia River Compact. Four Indian tribes have treaty fishing rights in the Columbia River. The treaties preempt state regulations that fail to allow the tribes an opportunity to take a fair share of the available fish, and the states must manage other fisheries accordingly. *Sohappy v. Smith*, 302 F. Supp. 899 (D. Or. 1969). A federal court order sets the current parameters for sharing between treaty Indians and others. *United States v. Oregon*, Civil No. 68-513-KI (D. Or.), Order Adopting 2008-

2017 *United States v. Oregon* Management Agreement (Aug. 12, 2008) (Doc. No. 2546).

Some Columbia River Basin salmon and steelhead stocks are listed as threatened or endangered under the federal ESA. On May 5, 2008, the National Marine Fisheries Service issued a biological opinion under 16 U.S.C. § 1536 that allows for some incidental take of these species in treaty and nontreaty Columbia River fisheries governed by the 2008-2017 *U.S. v. Oregon* Management Agreement. The Washington and Oregon fish and wildlife commissions have developed policies to guide the implementation of such biological opinions in the states' regulation of nontreaty fisheries.

Columbia River nontreaty fisheries are monitored very closely to ensure compliance with federal court orders, the ESA, and commission guidelines. Because conditions change rapidly, the fisheries are managed almost exclusively by emergency rule. Representatives from the Washington (WDFW) and Oregon (ODFW) departments of fish and wildlife convene public hearings and take public testimony when considering proposals for new emergency rules. WDFW and ODFW then adopt regulations reflecting agreements reached.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 4, Amended 0, Repealed 4.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: September 10, 2015.

James B. Scott, Jr.
for J. W. Unsworth
Director

NEW SECTION

WAC 220-88-05000E Designation of Columbia River seine fishery as an emerging commercial fishery. (1) The director designates the Columbia River seine salmon fishery as an emerging commercial fishery for which use of a vessel is required. The director has determined a need to limit the number of participants in this fishery.

(2) It is unlawful to fish for, possess, or deliver salmon taken for commercial purposes using beach or purse seine unless the fisher possesses a valid emerging commercial fishery license and a salmon experimental fishery permit for either beach seine or purse seine gear. A violation of this subsection is punishable under RCW 77.15.500, Commercial fishing without a license—Penalty.

NEW SECTION

WAC 220-88-06000E Columbia River seine emerging commercial fishery—Qualifications—Issuance of experimental fishery permits—License fee—Permit conditions. (1) Individuals interested in participating in this fishery must apply for an emerging fishery license.

(a) The first round of experimental fishery permits were drawn randomly from a pool of emerging fishery license applications for Columbia River seine fisheries. Applications were pooled by gear type (i.e. beach seine pool and purse seine pool).

(b) Drawings continued until the number of permits needed was filled for each gear type.

(c) Once drawn, the emerging fishery license and experimental fishery permit will be awarded so long as the applicant meets the qualifications for the license and permit as provided in subsection (2) of this section. Random drawings will continue from this pool of applicants until all permits are filled or the pool of qualified applicants is exhausted.

(d) The department may perform a second round of random drawings if the total number of permits needed is not filled from the applications received from the first round of applicants. Applications for any remaining permits will be accepted until filled.

(e) Alternate permits for each gear type may be drawn. Alternate permits for each gear type may be awarded if needed at the Department's discretion.

(f) For the second round, applicants drawn for an emerging fishery license and experimental fishery permit are asked to respond within seven (7) business days of being notified by the department to accept the permit and purchase the emerging fishery license. At that time the emerging fishery license fee will be due, and the license and permit will be issued by WDFW upon receipt of payment. The department will not issue the emerging fishery license or the experimental fishery permit until payment is received. If an applicant is drawn for the license and permit and fails to purchase the license and permit within the 7-day period, the department may issue the license and permit to another selected applicant.

(g) The emerging fishery license and experimental fishery permit remains in effect until further notice.

(2) Qualifications: An experimental fishery permit will only be issued to a natural person who has a valid emerging commercial fishery license and who:

(a) Possesses a commercial gillnet salmon license/permit issued by Washington or Oregon for the Columbia River, Columbia River/Willapa Bay or Columbia River/Grays Harbor and can demonstrate by valid Washington or Oregon fish receiving tickets that salmon have been taken in the Columbia River or Columbia River Select Areas within the past two calendar years (2013 and 2014) under that license; or

(b) Can demonstrate by valid Washington or Oregon fish receiving tickets that salmon have been taken in the Columbia River or Columbia River Select Areas by the applicant under a commercial salmon license issued for the Columbia River, Columbia River/Willapa Bay or Columbia River/Grays Harbor within the past two calendar years (2013 and 2014).

(3) Nothing in this section gives preference to 2015 permit holders for issuance of potential future permits.

(4) Experimental fishery permits are not transferable between persons. The permit holder must be present and in possession of a valid experimental fishery permit during seine fishing operations. A violation of this subsection is punishable under RCW 77.15.540, Unlawful use of a commercial fishery license—Penalty.

(5) It is unlawful to violate the conditions of the experimental fishery permit for the Columbia River seine emerging commercial fishery. A violation of this subsection is punishable under RCW 77.15.540, Unlawful use of a commercial fishery license—Penalty.

(6) Experimental fishery permits may be revoked at the discretion of the Director and future permits denied for failure to comply with conditions specified in the permit or violations of other commercial fishing regulations.

Reviser's note: The unnecessary underscoring in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

NEW SECTION

WAC 220-88-07000H Columbia River seine emerging commercial fishery—Season, area, and gear requirements. It is unlawful to fish for salmon for commercial purposes with beach or purse seine gear except as provided in this section:

(1) Season:

(a) Open hours 6:30 a.m. to 7:30 p.m. Open days are:

i. September 14 - 18, 2015

ii. September 21 - 25, 2015

iii. September 28 and September 30, 2015

(2) Open area: SMCRA 1B, 1C and upper area of SMCRA 1D, EXCEPT only Zones 2-3 (SMCRA 1B, 1C) are open on September 15 and September 17. Lower boundary for seine fishing in Zone 4 (SMCRA 1D) is described as a line from USCG light #10 "Red" on the Oregon shore at Henrici Landing across to a wing jetty on the Washington shore at river mile 90.25).

(3) Gear type: Beach seines or purse seines only. Only one seine net per primary vessel.

(a) Mesh size restricted to a 3.5-inch maximum (inside of knot to outside of knot using hand tension stretched measure).

(b) Net material to consist of 3-strand nylon; twine size \geq #12.

(c) Seines may include a bunt of 1.0-2.0 inch knotless mesh.

(d) Net length not to exceed 200 fathoms (NOT including associated lead nets). Net depth not to exceed 200 meshes (approximately 50 feet)

(e) Seine and lead lines may not be connected. Lead nets must be retrieved daily.

(f) No restrictions on corkline, leadline or use of stringers and slackers.

(g) A chafing strip panel consisting of non-monofilament webbing (such as nylon seine web or polyethylene trawl web) is allowed on bottom of net; maximum panel depth is 5-

feet. Chafing mesh not to exceed 3.5-inch stretched measure for beach and 5-inch stretched measure for purse. There are no restrictions associated with hangings used to connect the net to the chafing panel or the net or chafing panel to the leadline or corkline.

(h) Red corks are required at 25-fathom intervals and red corks must be in contrast to the corks used in the remainder of the net.

(i) Lead net (optional for both gear types). Only one lead net is allowed per fishing operation. Lead nets may not exceed 100 fathoms in length. Lead nets may be constructed of 3-strand nylon webbing, twine size \geq #12, \leq 3.5-inch mesh size (inside of knot to outside of knot using hand tension stretched measure) OR nylon or cotton webbing with mesh size \geq 14-inches. Lead nets may not be vertically slackened. Seine net and lead net may not be connected. Lead nets must be retrieved daily.

NEW SECTION

WAC 220-88-08000E Columbia River seine emerging commercial fishery—Allowable possession and sales—Catch handling requirements. (1) Allowable possession and sales: Adipose or left ventral fin-clipped Chinook, adipose-clipped coho, pink and sockeye salmon and shad. Subject to IFQs as defined on individual permits and fishery regulations, all legally-caught salmon must be landed and sold.

(2) Handling of catch: Hand sorting or use of a knotless dip net for sorting is required. All fish must be sorted and/or released prior to removing entire seine from water. Dry sorting not permitted.

(3) Sort time not to exceed 75 minutes.

(i) Beach seine - defined as the elapsed time from when the outer towed end of the net first contacts the shore or block until the net is emptied of fish.

(ii) Purse Seine - defined as the elapsed time from when all rings are pursed and out of the water until the net is emptied of fish.

(iii) Sorting may continue after the fishing period concludes.

(4) Observer Program - Agency observers must be present during all fishing operations

(5) 24-hour quick-report required pursuant to WAC 220-69-240.

REPEALER

The following sections of the Washington Administrative Code are repealed effective September 12, 2015:

WAC 220-88-05000D Designation of Columbia River seine fishery as an emerging commercial fishery. (15-316)

WAC 220-88-06000D Columbia River seine emerging commercial fishery—Qualifications—Issuance of experimental fishery permits—License fee—Permit conditions. (15-316)

- WAC 220-88-07000G Columbia River seine emerging commercial fishery—Season, area, and gear requirements. (15-316)
- WAC 220-88-08000D Columbia River seine emerging commercial fishery—Allowable possession and sales—Catch handling requirements. (15-316)

WSR 15-19-046
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 15-328—Filed September 10, 2015, 4:07 p.m., effective September 12, 2015, 6:00 p.m.]

Effective Date of Rule: September 12, 2015, 6:00 p.m.

Purpose: The purpose of this rule making is to provide for treaty Indian fishing opportunity in the Columbia River while protecting salmon listed as threatened or endangered under the Endangered Species Act (ESA). This rule making implements federal court orders governing Washington's relationship with treaty Indian tribes and federal law governing Washington's relationship with Oregon.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-32-05100I; and amending WAC 220-32-051.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.04.130, 77.12.045, and 77.12.047.

Other Authority: *United States v. Oregon*, Civil No. 68-513-KI (D. Or.), Order Adopting 2008-2017 *United States v. Oregon* Management Agreement (Aug. 12, 2008) (Doc. No. 2546); *Northwest Gillnetters Ass'n v. Sandison*, 95 Wn.2d 638, 628 P.2d 800 (1981); Washington fish and wildlife commission policies concerning Columbia River fisheries; 40 Stat. 515 (Columbia River Compact).

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Allows the sale of fish caught during the fifth and sixth weeks of the 2015 treaty commercial gillnet fall season. Continues to allow the sale of platform and hook and line caught fish from mainstem tribal fisheries in Zone 6. Sales of fish landed in the area downstream of Bonneville Dam (consistent with tribal MOU/MOAs) may also occur if the area is lawfully open for sales under tribal regulations. Similarly, the sale of fish caught in Yakama Nation tributary fisheries are allowed when open under Yakama Nation regulations. Nearly three hundred thousand adult fall Chinook are available to the treaty tribes for harvest based on the in-season forecast of nine hundred twenty five thousand three hundred fish. Steelhead harvest is expected to remain within the guideline based on the preseason forecast of forty-one thousand one hundred Group B fish. The quick reporting rule continues to be modified to require quick

reporting within twenty-four hours of completing the fish ticket, which is intended to allow harvest to be tracked as the season progresses. Fisheries are consistent with the 2008-2017 Management Agreement and the associated biological opinion. Rule is consistent with action of the Columbia River Compact on July 29, August 12, and September 10, 2015. Conforms state rules with tribal rules. There is insufficient time to adopt permanent rules.

The Yakama, Warm Springs, Umatilla, and Nez Perce Indian tribes have treaty fishing rights in the Columbia River and inherent sovereign authority to regulate their fisheries. Washington and Oregon also have some authority to regulate fishing by treaty Indians in the Columbia River, authority that the states exercise jointly under the congressionally ratified Columbia River Compact. *Sohappy v. Smith*, 302 F. Supp. 899 (D. Or. 1969). The tribes and the states adopt parallel regulations for treaty Indian fisheries under the supervision of the federal courts. A court order sets the current parameters. *United States v. Oregon*, Civil No. 68-513-KI (D. Or.), Order Adopting 2008-2017 *United States v. Oregon* Management Agreement (Aug. 12, 2008) (Doc. No. 2546). Some salmon and steelhead stocks in the Columbia River are listed as threatened or endangered under the federal ESA. On May 5, 2008, the National Marine Fisheries Service issued a biological opinion under 16 U.S.C. § 1536 that allow for some incidental take of these species in the fisheries as described in the 2008-2017 *U.S. v. Oregon* Management Agreement. Columbia River fisheries are monitored very closely to ensure consistency with court orders and ESA guidelines. Because conditions change rapidly, the fisheries are managed almost exclusively by emergency rule. As required by court order, the Washington (WDFW) and Oregon (ODFW) departments of fish and wildlife convene public hearings and invite tribal participation when considering proposals for new emergency rules affecting treaty fishing rights. *Sohappy*, 302 F. Supp. at 912. WDFW and ODFW then adopt regulations reflecting agreements reached.

Number of Sections Adopted in Order to Comply with Federal Statute: New 1, Amended 0, Repealed 1; Federal Rules or Standards: New 1, Amended 0, Repealed 1; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: September 10, 2015.

James B. Scott, Jr.
for J. W. Unsworth
Director

NEW SECTION

WAC 220-32-05100J Columbia River salmon seasons above Bonneville Dam. Notwithstanding the provisions of WAC 220-32-050, WAC 220-32-051, WAC 220-32-052 and WAC 220-32-058, effective immediately until further notice, it is unlawful for a person to take or possess salmon, steelhead, sturgeon, shad, carp, catfish, walleye, bass, or yellow perch taken for commercial purposes in Columbia River Salmon Management and Catch Reporting Areas 1E1, 1F, 1G, and 1H, and in the Wind River, Klickitat River, and Drano Lake. However, those individuals possessing treaty fishing rights under the Yakama, Warm Springs, Umatilla, and Nez Perce treaties may fish for salmon, steelhead, sturgeon, shad, carp, catfish, walleye, bass, or yellow perch under the following provisions.

(1) Open Area: SMCRA 1F, 1G, 1H (Zone 6):

(a) Season:

(i) 6:00 AM Monday Sept. 14 to 6:00 PM Saturday, Sept. 19, 2015.

(ii) 6:00 AM Monday Sept. 21 to 6:00 PM Friday, Sept 25, 2015.

(b) Gear: Gillnets only; 8-inch minimum mesh restriction.

(c) Allowable Sales: Salmon, steelhead, shad, carp, catfish, walleye, bass, or yellow perch. Sturgeon between 38-54 inches in fork length in the Bonneville Pool and sturgeon between 43-54 inches in fork length in The Dalles and John Day pools may be retained for subsistence purposes only.

(d) Standard sanctuaries for this gear type are in effect.

(2) Open Area: SMCRA 1F, 1G, 1H (Zone 6):

(a) Season: Immediately until further notice.

(b) Gear: Hoop nets, dip bag nets, and rod and reel with hook and line.

(c) Allowable sale: Salmon, steelhead, shad, carp, catfish, walleye, bass, or yellow perch. Sturgeon between 38-54 inches in fork length in the Bonneville Pool and sturgeon between 43-54 inches in fork length in The Dalles and John Day pools may be retained for subsistence purposes only. Live release of all oversize and under-size sturgeon is required.

(d) All sanctuaries for these gear types are in effect.

(3) Columbia River Tributaries upstream of Bonneville Dam:

(a) Season: Immediately until further notice, and only during those days and hours when the tributaries listed below are open under lawfully enacted Yakama Nation tribal subsistence fishery regulations for enrolled Yakama Nation members.

(b) Area: Drano Lake, Wind River and Klickitat River.

(c) Gear: Hoop nets, dip bag nets, and rod and reel with hook-and-line. Gill nets may only be used in Drano Lake.

(d) Allowable Sales: Salmon, steelhead, shad, carp, catfish, walleye, bass, or yellow perch. Sturgeon between 43-54 inches fork length harvested in tributaries within The Dalles or John Day Pools and sturgeon between 38-54 inches fork length harvested in tributaries within Bonneville pool may not be sold but may be kept for subsistence purposes only. Live release of all oversize and under-size sturgeon is required.

(4) Open Area: SMCRA 1E1. Each of the four Columbia River treaty tribes has an MOA or MOU with the Washington Department of Fish and Wildlife for tribal fisheries in the area just downstream of Bonneville Dam (within SMCRA 1E1). Tribal fisheries in this area may only occur in accordance with the appropriate MOA or MOU specific to each tribe, and only within any specific regulations set by each tribe.

(a) Participants:

(i) Tribal members may participate under the conditions described in the 2007 Memorandum of Agreement (MOA) with the Yakama Nation (YN), in the 2010 Memorandum of Understanding (MOU) with the Confederated Tribes of the Umatilla Indian Reservation (CTUIR), in the 2010 MOU with the Confederated Tribes of the Warm Spring Reservation (CTWS), and in the 2013 MOU with the Nez Perce Tribe.

(ii) Tribal members fishing below Bonneville Dam must carry an official tribal enrollment card.

(b) Season: Immediately until further notice. Open only during those days and hours when open under lawfully enacted tribal subsistence fishery regulations for enrolled tribal members.

(c) Allowable gear: Hoop nets, dip bag nets, and rod and reel with hook and line.

(d) Allowable Sales: Salmon, steelhead, shad, carp, catfish, walleye, bass, or yellow perch. Sturgeon retention is prohibited for any purpose. Sale of platform or hook-and-line-caught fish is allowed. Sales may not occur on USACE property.

(5) 24-hour quick reporting is required as provided in WAC 220-69-240, for Washington wholesale dealers for all areas, except that all landings from treaty fisheries described above must be reported within 24-hours of completing the fish ticket (not 24-hours after the period concludes).

(6) Sales of fish are allowed after open period concludes, as long as the fish sold were landed during the open period.

Reviser's note: The typographical errors in the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

REPEALER

The following section of the Washington Administrative Code is repealed effective 6:00 p.m. September 12, 2015:

WAC 220-32-05100I Columbia River salmon seasons above Bonneville Dam. (15-257)

WSR 15-19-060
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 15-329—Filed September 11, 2015, 3:56 p.m., effective September 12, 2015]

Effective Date of Rule: September 12, 2015.

Purpose: Amend recreational fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-310-18500D and 220-310-20000X; and amending WAC 220-310-185 and 220-310-200.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, and 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Anti-snagging rules in conjunction with the caveat all fish must be hooked inside the mouth has been successfully used to reduce snagging on several other southwest Washington streams. Enforcement has requested this regulation be applied to these areas above Bonneville Dam. There is insufficient time to adopt permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 2, Amended 0, Repealed 2.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: September 11, 2015.

J. W. Unsworth
Director

NEW SECTION

WAC 220-310-18500D Freshwater exceptions to statewide rules—Southwest. Notwithstanding the provisions of WAC 220-310-185, on the White Salmon River from the mouth upstream to the county road bridge below the former location of the powerhouse and at Drano Lake, the anti-snagging rule is in effect from September 12 through December 31, 2015. Only fish hooked inside the mouth may be retained while the anti-snagging rule is in effect.

NEW SECTION

WAC 220-310-20000X Freshwater exceptions to statewide rules—Columbia River. Notwithstanding the provisions of WAC 220-310-200, from Bonneville Dam to The Dalles Dam, the anti-snagging rule is in effect from September 12 through October 15, 2015. Only fish hooked inside the mouth may be retained while the anti-snagging rule is in effect.

REPEALER

The following sections of the Washington Administrative Code are repealed effective January 1, 2015:

WAC 220-310-18500D Freshwater exceptions to statewide rules—Southwest.

WAC 220-310-20000X Freshwater exception to statewide rules—Columbia River.

WSR 15-19-061 EMERGENCY RULES DEPARTMENT OF FISH AND WILDLIFE

[Order 15-330—Filed September 11, 2015, 3:58 a.m., effective September 16, 2015]

Effective Date of Rule: September 16, 2015.

Purpose: Amend recreational fishing rules for low water and elevated water temperatures.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-310-19500C, 220-310-19500F, and 220-310-19500I.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, and 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Streams have returned to near normal seasonal temperatures. Previously these streams were closed or put under "hoot owl" restrictions due to exceptionally low seasonal flows and/or elevated water temperatures. There is insufficient time to adopt permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 3.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: September 11, 2015.

J. W. Unsworth
Director

REPEALER

The following sections of the Washington Administrative Code are repealed effective September 16, 2015:

- WAC 220-310-19500C Freshwater exceptions to statewide rules—Eastside. (15-215)
 WAC 220-310-19500F Freshwater exceptions to statewide rules—Eastside. (15-236)
 WAC 220-310-19500I Freshwater exceptions to statewide rules—Eastside. (15-264)

WSR 15-19-062
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 15-331—Filed September 11, 2015, 4:00 p.m., effective September 11, 2015, 4:00 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend recreational fishing rules for low water and elevated water temperatures.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-310-19000E, 220-310-19000H, 220-310-19000J and 220-310-19000K; and amending WAC 220-310-190.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, and 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Streams have returned to near normal seasonal temperatures. Previously these streams were closed or put under "hoot owl" restrictions due to exceptionally low seasonal flows and/or elevated water temperatures. There is insufficient time to adopt permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 4.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: September 11, 2015.

J. W. Unsworth
 Director

NEW SECTION

WAC 220-310-19000L Freshwater exceptions to statewide rules—Puget Sound. Notwithstanding the provisions of WAC 220-310-190, effective immediately until further notice, it is unlawful to violate the following provisions, provided that unless otherwise amended, all permanent rules remain in effect:

(1) **South Fork Nooksack** (Whatcom Co.) From the mouth to Skookum Creek including tributaries are closed to all fishing.

(2) **Raging River** (King Co.) From the mouth upstream closed to all fishing.

(3) **Wallace River** (Snohomish Co.) From the mouth upstream including all tributaries closed to all fishing.

(4) **Suiattle River** (Skagit Co.) Tributaries Buck, Downey and Sulpher Creeks are closed to fishing.

Reviser's note: The spelling error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 220-310-19000E Freshwater exceptions to statewide rules—Puget Sound. (15-276)
 WAC 220-310-19000H Freshwater exceptions to statewide rules—Puget Sound. (15-283)
 WAC 220-310-19000J Freshwater exceptions to statewide rules—Puget Sound. (15-306)
 WAC 220-310-19000K Freshwater exceptions to statewide rules—Puget Sound. (15-309)

WSR 15-19-063
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 15-333—Filed September 11, 2015, 4:01 p.m., effective September 11, 2015, 4:01 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-40-02700Z; and amending WAC 220-40-027.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, and 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: An emergency rule is needed to open a test fishery as it will be used to evaluate stock com-

position and whether scheduled fisheries should open. There is insufficient time to adopt permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: September 11, 2015.

J. W. Unsworth
Director

NEW SECTION

WAC 220-40-02700Z Willapa Bay salmon—Fall fishery. Notwithstanding the provisions of WAC 220-40-027, effective 6:00 a.m. September 14 through 6:00 p.m. September 14, 2015, it is unlawful to fish in waters of Willapa Bay for commercial purposes, except:

(1) Open only in Willapa Bay Catch Area 2M and only for the vessel "WN 2114LF".

(2) Mesh size must not exceed six and one-half inches stretched.

(3) The vessel must have two operable recovery boxes or one box with two chambers on board.

(a) Each box and chamber must be operating during any time the net is being retrieved or picked. The flow in the recovery box must be a minimum of 16 gallons per minute in each chamber of the box, not to exceed 20 gallons per minute.

(b) Each chamber of the recovery box must meet the following dimensions as measured from within the box:

(i) The inside length measurement must be at or within 39-1/2 inches to 48 inches;

(ii) The inside width measurements must be at or within 8 to 10 inches; and

(iii) The inside height measurement must be at or within 14 to 16 inches.

(c) Each chamber of the recovery box must include a water inlet hole between 3/4 inch and 1 inch in diameter, centered horizontally across the door or wall of the chamber and 1-3/4 inches from the floor of the chamber. Each chamber of the recovery box must include a water outlet hole opposite the inflow that is at least 1-1/2 inches in diameter. The center of the outlet hole must be located a minimum of 12 inches above the floor of the box or chamber. The fisher must demonstrate to department employees, fish and wildlife enforcement officers, or other peace officers, upon request, that the pumping system is delivering the proper volume of fresh river or fresh bay water into each chamber.

(4) All steelhead, wild (unmarked) Chinook, and Chum must be placed in an operating recovery box which meets the requirements in subsection 3 of this subsection prior to being released to the river/bay as set forth in section (5).

(5) All fish placed in recovery boxes must remain until they are not lethargic and not bleeding and must be released to the river/bay prior to landing or docking.

(6) Soak time must not exceed 45 minutes. Soak time is defined as the time elapsed from when the first of the gillnet web is deployed into the water until the gillnet web is fully retrieved from the water.

(7) Quick reporting is required for wholesale dealers and fishers retailing their catch under a "direct retail endorsement." According to WAC 220-69-240(14), reports must be made by 10:00 a.m. the day following landing.

(8) It is unlawful to retain any species other than Coho salmon or hatchery Chinook marked by a healed scar at the site of the adipose fin.

(9) The fisher must take a department observer onboard the vessel while fishing.

(10) The vessel must stop fishing at 6:00 p.m., when 10 unmarked Chinook are encountered, or when 100 marked Chinook have been retained, whichever comes first.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

REPEALER

The following section of the Washington Administrative Code is repealed effective 6:01 p.m. September 14, 2015:

WAC 220-40-02700Z Willapa Bay salmon—Fall fishery.

WSR 15-19-064

EMERGENCY RULES

DEPARTMENT OF

FISH AND WILDLIFE

[Order 15-332—Filed September 11, 2015, 4:33 p.m., effective September 11, 2015, 4:33 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend recreational fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-310-19500L; and amending WAC 220-310-195.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, and 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: These six lakes are scheduled to be treated with rotenone to remove nuisance fish species as part of an effort to restore the quality of trout fishing in those waters. Rotenone is an organic substance derived from the roots of tropical plants, which has been approved for use as a

fish pesticide by the United States Environmental Protection Agency. Prior to the treatment, fishery managers are allowing current license holders to harvest fish without size or daily limits. There is insufficient time to adopt permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: September 11, 2015.

Joe Stohr
for J. W. Unsworth
Director

NEW SECTION

WAC 220-310-19500L Freshwater exceptions to statewide rules—Eastside. Notwithstanding the provisions of WAC 220-310-195, it is unlawful to violate the provisions below. Unless otherwise amended all permanent rules remain in effect:

(1) **Rat Lake (Okanogan Co.)**, Effective immediately through October 18, 2015

(a) Size and daily limit for game fish do not apply.

(b) Selective gear rules do not apply.

(2) **Upper and Lower Green Lakes (Okanogan Co.)**, Effective immediately through October 18, 2015:

(a) Size and daily limit for game fish do not apply.

(b) Selective gear rules do not apply.

(3) **No Name Lake (Pend Oreille Co.)** Effective immediately through October 25, 2015.

(a) Size and daily limits for game fish do not apply.

(4) **Badger Lake (Spokane Co.)**, Effective immediately through October 25, 2015:

(a) It is permissible to fish in waters of Badger Lake.

(b) Size and daily limits for game fish do not apply.

(5) **Williams Lake (Spokane Co.)**, Effective immediately through October 25, 2015:

(a) It is permissible to fish in waters of Williams Lake.

(b) Size and daily limits for game fish do not apply.

REPEALER

The following section of the Washington Administrative Code is repealed effective October 26, 2015:

WAC 220-310-19500L Freshwater exceptions to statewide rules—Eastside.

WSR 15-19-075

EMERGENCY RULES

DEPARTMENT OF

FISH AND WILDLIFE

[Order 15-336—Filed September 14, 2015, 3:21 p.m., effective September 15, 2015]

Effective Date of Rule: September 15, 2015.

Purpose: Amend recreational fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-56-12400P.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.12.045, and 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: An emergency rule is needed to reopen the Hoodspport Hatchery Zone as Chinook broodstock collection efforts at the Hoodspport Hatchery are quickly approaching the goal. As of September 8, 2015, one thousand nine hundred Chinook broodstock have been trapped at the hatchery, leading tribal and state fisheries managers to expect the collection goal will be met. There is insufficient time to adopt permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: September 14, 2015.

J. W. Unsworth
Director

REPEALER

The following section of the Washington Administrative Code is repealed effective September 15, 2015:

WAC 220-56-12400P Seasons and areas—Hoodspport Hatchery. (15-318)

WSR 15-19-077
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 15-335—Filed September 14, 2015, 4:32 p.m., effective September 14, 2015, 4:32 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend work times in the aquatic plants and fish pamphlet for all aquatic plant removal activities except hand pulling.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-660-29000D; and amending WAC 220-660-290.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.12.045, and 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: A lack of snowpack from an unusually warm winter has resulted in drought conditions throughout much of Washington. A healthy snowpack slowly provides water to rivers and streams, helping to sustain fish through the drier summer months. But, with little or no snowpack, flows in many rivers dropped significantly and water temperatures increased - conditions that are lethal to fish. In response, Washington department of fish and wildlife (WDFW) placed drought-related fishing closures and restrictions on nearly sixty rivers and streams.

Low water and higher than normal water temperatures limited fish movement and made them more susceptible to diseases. In addition, stream flows fell low enough to concentrate fish into small areas of refugia where they were highly susceptible to additional stress from disturbance caused by aquatic plant removal. To protect fish life, WDFW aligned the work times for all aquatic plant removal activities except hand pulling with the drought-related fishing closures or restrictions now in effect. There was insufficient time to adopt permanent rules. Water temperatures and streamflows have improved due to changing weather patterns, so emergency rule changes for aquatic plant removal activities in some streams are being modified to return to permanent rule requirements.

The daily closures are intended to reduce additional stress to fish from aquatic plant removal activities during periods of the day when fish are stressed from elevated temperatures. In addition, some streams are closed to aquatic plant removal activities except hand pulling because of record low flows due to lack of winter snowpack and rainfall. Stream flows have fallen low enough to concentrate fish into small areas of refugia where they are highly susceptible to additional stress from disturbance at these temperatures [which] further reduces survival.

Many of the restrictions placed on various streams under previous emergency rules are repealed in this emergency rule. Lower air temperatures and recent rainfall have resulted in stream flows and water temperatures similar to average fall conditions. Those conditions are not expected to change con-

siderably for the remaining times aquatic plant removal activity is authorized under the permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: September 14, 2015.

J. W. Unsworth
 Director

NEW SECTION

WAC 220-660-29000E Aquatic plant removal and control Notwithstanding the provisions of WAC 220-660-290, effective immediately until further notice, it is unlawful to violate the following provisions, provided that unless otherwise amended, all permanent rules remain in effect:

Asotin County

Asotin Creek and tributaries from mouth to headwaters: Closed to all aquatic plant removal activities except hand pulling.

Chelan County

Wenatchee River from mouth to the Icicle River Road Bridge: Closed to all aquatic plant removal activities except hand pulling.

Icicle River from the mouth to 500 feet downstream of the Leavenworth National Fish Hatchery Barrier Dam: Closed to all aquatic plant removal activities except hand pulling.

Peshastin Creek and all tributaries: Closed daily to all aquatic plant removal activities from 2 PM to midnight except hand pulling.

Columbia County

Tucannon River (Columbia/Garfield Co.) From Highway 12 Bridge to Cow Camp Bridge: Closed daily to all aquatic plant removal activities from 2 PM to midnight except hand pulling.

Touchet River (Columbia/Walla Walla Co.) from mouth to the confluence of the North and South forks: Closed daily to all aquatic plant removal activities from 2 PM to midnight except hand pulling.

(1) North Fork Touchet River from mouth to Spangler Creek: Closed daily to all aquatic plant removal activities from 2 PM to midnight except hand pulling.

(2) North Fork Touchet River upstream from the confluence of Spangler Creek: Closed to all aquatic plant removal activities except hand pulling.

(3) South Fork Touchet River from mouth to Griffen Fork and above Griffen Fork: Closed to all aquatic plant removal activities except hand pulling.

(4) Wolf Fork Touchet River from mouth to Coates Creek and Robinson Fork: Closed to all aquatic plant removal activities except hand pulling.

Ferry County

Kettle River and all tributaries from Barstow Bridge to headwaters, all portions contained within the United States: Closed to all aquatic plant removal activities except hand pulling.

Garfield County

Tucannon River (Columbia/Garfield Co.) From Highway 12 Bridge to Cow Camp Bridge: Closed daily to all aquatic plant removal activities from 2 PM to midnight except hand pulling.

Grays Harbor County

Black River (Grays Harbor and Thurston Counties) from the mouth upstream to Black Lake: Closed to all aquatic plant removal activities except hand pulling.

Jefferson County

Queets River and its tributaries including Matheny Creek and the Salmon River outside Olympic National Park and the Quinault Reservation: Closed to all aquatic plant removal activities except hand pulling.

King County

Raging River from the mouth upstream: Closed to all aquatic plant removal activities except hand pulling.

Kittitas County

Little Naches River: Closed to all aquatic plant removal activities except hand pulling.

Teanaway River, including West, Middle and North Forks: Closed to all aquatic plant removal activities except hand pulling.

Swauk Creek and all tributaries except Williams Creek: Closed daily to all aquatic plant removal activities from 2 PM to midnight except hand pulling. Williams Creek is closed to all aquatic plant removal activities except hand pulling.

Lewis County

Newaukum River and all tributaries: Closed to all aquatic plant removal activities except hand pulling.

Lincoln County

Spokane River (Spokane/Lincoln Co.) from upstream Boundary at Plese Flats Day Use Area to Idaho State Boundary: Closed daily to all aquatic plant removal activities from 2 PM to midnight except hand pulling.

Okanogan County

Methow River from County Road 1535 Bridge (lower Burma Rd.) upstream to Weeman Bridge (8 miles upstream of Winthrop): Closed daily to all aquatic plant removal activities from 2 PM to midnight except hand pulling.

Okanogan River from the Hwy 97 Bridge immediately upstream of the mouth to Zosel Dam: Closed to all aquatic plant removal activities except hand pulling.

Similkameen River from the mouth upstream to Enloe Dam: Closed to all aquatic plant removal activities except hand pulling.

Pend Oreille County

Sullivan Creek and all tributaries from mouth to headwaters: Closed daily to all aquatic plant removal activities from 2 PM to midnight except hand pulling.

Spokane River tributaries, including Little Spokane River and tributaries (Spokane/Pend Oreille/Stevens Co.) from State Route 25 Bridge upstream to Monroe Street Dam: Closed daily to all aquatic plant removal activities from 2 PM to midnight except hand pulling.

Skagit County

Suiattle River Tributaries Buck, Downey and Sulpher Creeks: Closed to all aquatic plant removal activities except hand pulling.

Snohomish County

Wallace River from the mouth upstream including all tributaries: Closed to all aquatic plant removal activities except hand pulling.

Spokane County

Spokane River (Spokane/Lincoln Co.) from upstream Boundary at Plese Flats Day Use Area to Idaho State Boundary: Closed daily to all aquatic plant removal activities from 2 PM to midnight except hand pulling.

Spokane River tributaries, including Little Spokane River and tributaries (Spokane/Pend Oreille/Stevens Co.) from State Route 25 Bridge upstream to Monroe Street Dam: Closed daily to all aquatic plant removal activities from 2 PM to midnight except hand pulling.

Stevens County

Spokane River tributaries, including Little Spokane River and tributaries (Spokane/Pend Oreille/Stevens Co.) from State Route 25 Bridge upstream to Monroe Street Dam: Closed daily to all aquatic plant removal activities from 2 PM to midnight except hand pulling.

Colville River and all tributaries from mouth to headwaters: Closed daily to all aquatic plant removal activities from 2 PM to midnight except hand pulling.

Thurston County

Black River (Grays Harbor and Thurston Counties) from the mouth upstream to Black Lake: Closed to all aquatic plant removal activities except hand pulling.

Walla Walla County

Walla Walla River from McDonald Road Bridge to Oregon State Boundary: Closed daily to all aquatic plant removal activities from 2 PM to midnight except hand pulling.

Mill Creek from Bennington Dam to State Line: Closed daily to all aquatic plant removal activities from 2 PM to midnight except hand pulling.

Whatcom County

South Fork Nooksack River from the mouth to Skookum Creek: Closed to all aquatic plant removal activities except hand pulling.

Yakima County

Ahtanum Creek, including North and Middle Forks: Closed to all aquatic plant removal activities except hand pulling.

American River: Closed to all aquatic plant removal activities except hand pulling.

Notwithstanding the provisions of WAC 220-660-290, effective September 16, 2015 until further notice, it is unlaw-

ful to violate the following provisions, provided that unless otherwise amended, all permanent rules remain in effect:

Chelan County

Wenatchee River from mouth to the Icicle River Road Bridge: Closed to all aquatic plant removal activities except hand pulling.

Icicle River from the mouth to 500 feet downstream of the Leavenworth National Fish Hatchery Barrier Dam: Closed to all aquatic plant removal activities except hand pulling.

Peshastin Creek and all tributaries: Closed daily to all aquatic plant removal activities from 2 PM to midnight except hand pulling.

Grays Harbor County

Black River (Grays Harbor and Thurston Counties) from the mouth upstream to Black Lake: Closed to all aquatic plant removal activities except hand pulling.

Jefferson County

Queets River and its tributaries including Matheny Creek and the Salmon River outside Olympic National Park and the Quinault Reservation: Closed to all aquatic plant removal activities except hand pulling.

King County

Raging River from the mouth upstream: Closed to all aquatic plant removal activities except hand pulling.

Kittitas County

Little Naches River: Closed to all aquatic plant removal activities except hand pulling.

Teanaway River, including West, Middle and North Forks: Closed to all aquatic plant removal activities except hand pulling.

Swauk Creek and all tributaries except Williams Creek: Closed daily to all aquatic plant removal activities from 2 PM to midnight except hand pulling. Williams Creek is closed to all aquatic plant removal activities except hand pulling.

Lewis County

Newaukum River and all tributaries: Closed to all aquatic plant removal activities except hand pulling.

Okanogan County

Okanogan River from the Hwy 97 Bridge immediately upstream of the mouth to Zosel Dam: Closed to all aquatic plant removal activities except hand pulling.

Similkameen River from the mouth upstream to Enloe Dam: Closed to all aquatic plant removal activities except hand pulling.

Skagit County

Suiattle River Tributaries Buck, Downey and Sulpher Creeks: Closed to all aquatic plant removal activities except hand pulling.

Snohomish County

Wallace River from the mouth upstream including all tributaries: Closed to all aquatic plant removal activities except hand pulling.

Stevens County

Colville River and all tributaries from mouth to headwaters: Closed daily to all aquatic plant removal activities from 2 PM to midnight except hand pulling.

Thurston County

Black River (Grays Harbor and Thurston Counties) from the mouth upstream to Black Lake: Closed to all aquatic plant removal activities except hand pulling.

Whatcom County

South Fork Nooksack River from the mouth to Skookum Creek: Closed to all aquatic plant removal activities except hand pulling.

Yakima County

Ahtanum Creek, including North and Middle Forks: Closed to all aquatic plant removal activities except hand pulling.

American River: Closed to all aquatic plant removal activities except hand pulling.

Reviser's note: The spelling errors in the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-660-29000D Aquatic plant removal and control.
(15-311)

WSR 15-19-078

EMERGENCY RULES

DEPARTMENT OF

FISH AND WILDLIFE

[Order 15-334—Filed September 14, 2015, 4:33 p.m., effective September 14, 2015, 4:33 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend authorized work times for suction dredging in the gold and fish rules for mineral prospecting and placer mining.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-660-30000D; and amending WAC 220-660-300.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.12.045, and 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: A lack of snowpack from an unusually warm winter has resulted in drought conditions throughout much of Washington. A healthy snowpack slowly provides water to rivers and streams, helping to sustain fish through the drier summer months. But, with little or no snowpack, flows in many rivers dropped significantly and water temperatures increased - conditions that are lethal to fish. In response, Washington department of fish and wildlife (WDFW) placed drought-related fishing closures and restrictions on over sixty rivers and streams.

Low water and higher than normal water temperatures limited fish movement and made them more susceptible to diseases. In addition, stream flows fell low enough to concentrate fish into small areas of refugia where they were highly susceptible to additional stress from disturbance caused by suction dredging. To protect fish life, WDFW aligned the authorized work times for suction dredging in the gold and fish rules for mineral prospecting and placer mining with drought-related fishing closures or restrictions in effect. There was insufficient time to adopt permanent rules. Water temperatures and streamflows have improved due to changing weather patterns, so emergency rule changes for mineral prospecting in some streams are being modified to return to permanent rule requirements.

Per permanent rule, work in the wetted perimeter or frequent scour zone is authorized from one-half hour before sunrise to one-half hour after sunset. The daily closures from 2 p.m. to one-half hour after sunset are intended to reduce additional stress to fish from suction dredging during periods of the day when fish are stressed from elevated temperatures. In addition, some streams are closed to suction dredging because of record low flows due to lack of winter snowpack and rainfall. Stream flows have fallen low enough to concentrate fish into small areas of refugia where they are highly susceptible to additional stress from disturbance at these temperatures [which] further reduces survival.

Many of the restrictions placed on various streams under previous emergency rules are repealed in this emergency rule. Lower air temperatures and recent rainfall have resulted in stream flows and water temperatures similar to average fall conditions. Those conditions are not expected to change considerably for the remaining times dredging is authorized under the permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: September 14, 2015.

J. W. Unsworth
Director

NEW SECTION

WAC 220-660-30000E Mineral prospecting Notwithstanding the provisions of WAC 220-660-300, effective immediately until further notice, it is unlawful to violate the following provisions, provided that unless otherwise amended, all permanent rules remain in effect:

Asotin County

Asotin Creek and tributaries from mouth to headwaters: Closed to suction dredging.

Chelan County

Wenatchee River from mouth to the Icicle River Road Bridge: Closed to suction dredging.

Icicle River from the mouth to 500 feet downstream of the Leavenworth National Fish Hatchery Barrier Dam: Closed to suction dredging.

Peshastin Creek and all tributaries: Closed daily to suction dredging from 2 PM to one-half hour after official sunset.

Columbia County

Tucannon River (Columbia/Garfield Co.) From Highway 12 Bridge to Cow Camp Bridge: Closed daily to suction dredging from 2 PM to one-half hour after official sunset.

Touchet River (Columbia/Walla Walla Co.) from mouth to the confluence of the North and South forks: Closed daily to suction dredging from 2 PM to one-half hour after official sunset.

(1) North Fork Touchet River from mouth to Spangler Creek: Closed daily to suction dredging from 2 PM to one-half hour after official sunset.

(2) North Fork Touchet River upstream from the confluence of Spangler Creek: Closed to suction dredging.

(3) South Fork Touchet River from mouth to Griffen Fork and above Griffen Fork: Closed to suction dredging.

(4) Wolf Fork Touchet River from mouth to Coates Creek and Robinson Fork: Closed to suction dredging.

Ferry County

Kettle River and all tributaries from Barstow Bridge to headwaters, all portions contained within the United States: Closed to suction dredging.

Garfield County

Tucannon River (Columbia/Garfield Co.) From Highway 12 Bridge to Cow Camp Bridge: Closed daily to suction dredging from 2 PM to one-half hour after official sunset.

Grays Harbor County

Black River (Grays Harbor and Thurston Counties) from the mouth upstream to Black Lake: Closed to suction dredging.

Jefferson County

Queets River and its tributaries including Matheny Creek outside Olympic National Park and the Quinault Reservation: Closed to suction dredging.

King County

Raging River from the mouth upstream: Closed to suction dredging.

Kittitas County

Little Naches River: Closed to suction dredging.

Teanaway River, including West, Middle and North Forks: Closed to suction dredging.

Swauk Creek and all tributaries downstream from the confluence of Williams Creek: Closed daily to suction dredging from 2 PM to until one-half hour after official sunset. Williams Creek and all tributaries and Swauk Creek and all tributaries upstream from the confluence of Williams Creek: Closed to suction dredging.

Lewis County

Newaukum River and all tributaries: Closed to suction dredging.

Lincoln County

Spokane River (Spokane/Lincoln Co.) from upstream Boundary at Plese Flats Day Use Area to Idaho State Boundary: Closed daily to suction dredging from 2 PM to one-half hour after official sunset.

Okanogan County

Methow River from County Road 1535 Bridge (lower Burma Rd.) upstream to Weeman Bridge (8 miles upstream of Winthrop): Closed daily to suction dredging from 2 PM to one-half hour after official sunset.

Okanogan River from the Hwy 97 Bridge immediately upstream of the mouth to Zosel Dam: Closed to suction dredging.

Similkameen River from the mouth upstream to Enloe Dam: Closed to suction dredging.

Pend Oreille County

Sullivan Creek and all tributaries from mouth to headwaters: Closed daily to suction dredging from 2 PM to one-half hour after official sunset.

Spokane River tributaries, including Little Spokane River and tributaries (Spokane/Pend Oreille/Stevens Co.) from State Route 25 Bridge upstream to Monroe Street Dam: Closed daily to suction dredging from 2 PM to one-half hour after official sunset.

Skagit County

Suiattle River Tributaries Buck, Downey and Sulpher Creeks: Closed to suction dredging.

Snohomish County

Wallace River from the mouth upstream including all tributaries: Closed to suction dredging.

Spokane County

Spokane River (Spokane/Lincoln Co.) from upstream Boundary at Plese Flats Day Use Area to Idaho State Boundary: Closed daily to suction dredging 2 PM to one-half hour after official sunset.

Spokane River tributaries, including Little Spokane River and tributaries (Spokane/Pend Oreille/Stevens Co.) from State Route 25 Bridge upstream to Monroe Street Dam: Closed daily to suction dredging from 2 PM to one-half hour after official sunset.

Stevens County

Spokane River tributaries, including Little Spokane River and tributaries (Spokane/Pend Oreille/Stevens Co.) from State Route 25 Bridge upstream to Monroe Street Dam: Closed daily to suction dredging from 2 PM to one-half hour after official sunset.

Colville River and all tributaries from mouth to headwaters: Closed daily to suction dredging from 2 PM to one-half hour after official sunset.

Thurston County

Black River (Grays Harbor and Thurston Counties) from the mouth upstream to Black Lake: Closed to suction dredging.

Walla Walla County

Walla Walla River from McDonald Road Bridge to Oregon State Boundary: Closed daily to suction dredging from 2 PM to one-half hour after official sunset.

Mill Creek from Bennington Dam to State Line: Closed daily to suction dredging from 2 PM to one-half hour after official sunset.

Whatcom County

South Fork Nooksack River from the mouth to Skookum Creek: Closed to suction dredging.

Yakima County

Ahtanum Creek, including North and Middle Forks: Closed to suction dredging.

American River: Closed to suction dredging.

Notwithstanding the provisions of WAC 220-660-300, effective September 16, 2015 until further notice, it is unlawful to violate the following provisions, provided that unless otherwise amended, all permanent rules remain in effect:

Chelan County

Wenatchee River from mouth to the Icicle River Road Bridge: Closed to suction dredging.

Icicle River from the mouth to 500 feet downstream of the Leavenworth National Fish Hatchery Barrier Dam: Closed to suction dredging.

Peshastin Creek and all tributaries: Closed daily to suction dredging from 2 PM to one-half hour after official sunset.

Grays Harbor County

Black River (Grays Harbor and Thurston Counties) from the mouth upstream to Black Lake: Closed to suction dredging.

Jefferson County

Queets River and its tributaries including Matheny Creek outside Olympic National Park and the Quinault Reservation: Closed to suction dredging.

King County

Raging River from the mouth upstream: Closed to suction dredging.

Kittitas County

Little Naches River: Closed to suction dredging.

Teanaway River, including West, Middle and North Forks: Closed to suction dredging.

Swauk Creek and all tributaries downstream from the confluence of Williams Creek: Closed daily to suction dredging from 2 PM to until one-half hour after official sunset. Williams Creek and all tributaries and Swauk Creek and all tributaries upstream from the confluence of Williams Creek: Closed to suction dredging.

Lewis County

Newaukum River and all tributaries: Closed to suction dredging.

Okanogan County

Okanogan River from the Hwy 97 Bridge immediately upstream of the mouth to Zosel Dam: Closed to suction dredging.

Similkameen River from the mouth upstream to Enloe Dam: Closed to suction dredging.

Skagit County

Suiattle River Tributaries Buck, Downey and Sulpher Creeks: Closed to suction dredging.

Snohomish County

Wallace River from the mouth upstream including all tributaries: Closed to suction dredging.

Stevens County

Colville River and all tributaries from mouth to headwaters: Closed daily to suction dredging from 2 PM to one-half hour after official sunset.

Thurston County

Black River (Grays Harbor and Thurston Counties) from the mouth upstream to Black Lake: Closed to suction dredging.

Whatcom County

South Fork Nooksack River from the mouth to Skookum Creek: Closed to suction dredging.

Yakima County

Ahtanum Creek, including North and Middle Forks: Closed to suction dredging.

American River: Closed to suction dredging.

Reviser's note: The spelling errors in the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-660-30000D Mineral prospecting. (15-312)

WSR 15-19-083
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 15-338—Filed September 15, 2015, 3:18 p.m., effective September 15, 2015, 3:18 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: This emergency rule will allow nontreaty commercial fishing opportunities in the Columbia River while protecting fish listed as threatened or endangered under the Endangered Species Act (ESA). This rule implements federal court orders governing Washington's relationship with treaty Indian tribes, federal law governing Washington's relationship with Oregon, and Washington fish and wildlife commission policy guidance for Columbia River fisheries.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-33-01000W; and amending WAC 220-33-010.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.04.130, 77.12.045, and 77.12.047.

Other Authority: *United States v. Oregon*, Civil No. 68-513-KI (D. Or.), Order Adopting 2008-2017 *United States v. Oregon* Management Agreement (Aug. 12, 2008) (Doc. No. 2546); *Northwest Gillnetters Ass'n v. Sandison*, 95 Wn.2d 638, 628 P.2d 800 (1981); Washington fish and wildlife commission policies concerning Columbia River fisheries; 40 Stat. 515 (Columbia River Compact).

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of

notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Sets a mainstem commercial fishing period to begin the late fall season. Select area sites remain open. The late fall season was scheduled to begin the week of September 13 and Chinook remain available for commercial harvest. Harvest estimates are well within ESA limits and sharing guidelines. The seasons are consistent with the *U.S. v. Oregon* 2008-2017 Interim Management Agreement and the fall Chinook allocation agreement developed through the North of Falcon process. The rule is consistent with compact action of July 29 and September 14, 2015. There is insufficient time to adopt permanent rules.

Washington and Oregon jointly regulate Columbia River fisheries under the congressionally ratified Columbia River Compact. Four Indian tribes have treaty fishing rights in the Columbia River. The treaties preempt state regulations that fail to allow the tribes an opportunity to take a fair share of the available fish, and the states must manage other fisheries accordingly. *Sohappy v. Smith*, 302 F. Supp. 899 (D. Or. 1969). A federal court order sets the current parameters for sharing between treaty Indians and others. *United States v. Oregon*, Civil No. 68-513-KI (D. Or.), Order Adopting 2008-2017 *United States v. Oregon* Management Agreement (Aug. 12, 2008) (Doc. No. 2546).

Some Columbia River Basin salmon and steelhead stocks are listed as threatened or endangered under the federal ESA. On May 5, 2008, the National Marine Fisheries Service issued a biological opinion under 16 U.S.C. § 1536 that allows for some incidental take of these species in treaty and nontreaty Columbia River fisheries governed by the 2008-2017 *U.S. v. Oregon* Management Agreement. The Washington and Oregon fish and wildlife commissions have developed policies to guide the implementation of such biological opinions in the states' regulation of nontreaty fisheries.

Columbia River nontreaty fisheries are monitored very closely to ensure compliance with federal court orders, the ESA, and commission guidelines. Because conditions change rapidly, the fisheries are managed almost exclusively by emergency rule. Representatives from the Washington (WDFW) and Oregon (ODFW) departments of fish and wildlife convene public hearings and take public testimony when considering proposals for new emergency rules. WDFW and ODFW then adopt regulations reflecting agreements reached.

Number of Sections Adopted in Order to Comply with Federal Statute: New 1, Amended 0, Repealed 1; Federal Rules or Standards: New 1, Amended 0, Repealed 1; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making:

New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: September 15, 2015.

J. W. Unsworth
Director

NEW SECTION

WAC 220-33-01000X Columbia River season below Bonneville. Notwithstanding the provisions of WAC 220-33-010, it is unlawful for a person to take or possess salmon for commercial purposes from Columbia River Salmon Management and Catch Reporting Areas (SMCRA) 1A, 1B, 1C, 1D, and 1E, except as provided in this section.

(1) Mainstem Columbia River

(a) SEASON: 9:00 PM September 15 to 6 AM September 16, 2015

(b) AREA: SMCRA 1D, 1E. The deadline at the lower end of SMCRA 1D is defined as a straight line projected from the Warrior Rock Lighthouse on the Oregon shore easterly through the green navigation buoy #1 and continuing to the Washington shore.

(c) GEAR: Drift gillnets only. 9-inch minimum mesh size. Nets not specifically authorized for use may be onboard the vessel if properly stored, consistent with WAC 220-33-001. Lighted buoys required.

(d) SANCTUARIES: Washougal and Sandy Rivers. The lower end of the Washougal sanctuary is extended and defined as: a line originating at USCG green marker #1 near the Washington shore due south to the downstream Fisher Quarry Channel range light on the western end of Ackerman Island then from the upstream tip of Ackerman Island (Sand Island) across to the downstream (western) tip of Lady Island.

(e) ALLOWABLE POSSESSION: Chinook, coho, pink and sockeye salmon and shad.

(2) Deep River Select Area.

(a) SEASON: Open hours 6 PM to 9 AM.

(i) Monday, Tuesday, Wednesday, Thursday and Friday nights immediately through September 26, 2015

(ii) Monday, Tuesday, Wednesday, and Thursday nights Sept. 28 - October 16, 2015

(iii) 6 PM Monday October 19 to 9 AM Tuesday October 20, 2015

(b) AREA: The Deep River Select Area. Concurrent-jurisdiction waters extend downstream of the Highway 4 Bridge.

(c) GEAR: Gillnet. Monofilament gear is allowed. 6-inch maximum mesh. Net length: 100 fathoms maximum. No weight restriction on the lead line. Use of additional weights or anchors attached directly to the lead line is allowed. Nets may not be tied off to stationary structures. Nets may not fully cross the navigation channel. It is unlawful to operate in any river, stream or channel any gillnet gear longer than three-fourths the width of the river, stream, or channel. "River, stream, or channel width" is defined as bank-to-bank, where the water meets the banks, regardless of the time of tide or the water level. This emergency provision supersedes the permanent rule and all other rules that conflict with it.

(3) Tongue Point/South Channel Select Area.

(a) SEASON: Open hours 4 PM to 10 AM. Open days are Monday, Tuesday, Wednesday, and Thursday nights immediately through September 18, 2015, and Sunday, Monday, Tuesday, Wednesday, and Thursday nights from September 20 through October 30, 2015.

(b) AREA: Tongue Point and South Channel. All waters in this fishing area are concurrent-jurisdiction waters.

(c) GEAR: Gillnet; 6-inch maximum mesh. Net length: 250 fathoms maximum.

(i) Tongue Point fishing area: weight not to exceed two pounds in any one fathom. Fishers participating in the Tongue Point fishery may have un-stored gillnets legal for the South Channel fishing area onboard the vessel.

(ii) South Channel area: no weight restriction on lead-line. Use of additional weights and/or anchors attached directly to the leadline is allowed

(4) Blind Slough/Knappa Slough Select Area.

(a) SEASON: Open hours are: 6 PM - 10 AM. Open days are: Monday, Tuesday, Wednesday, and Thursday nights immediately through September 18 and Sunday, Monday, Tuesday, Wednesday, and Thursday nights from September 20 through October 30

(b) AREA: Blind Slough and Knappa Slough. An area closure of an approximately 100-foot radius at the mouth of Big Creek is in effect. Concurrent jurisdiction waters include all areas in Knappa Slough and downstream of the Railroad Bridge in Blind Slough.

(c) GEAR: Gillnet. Monofilament gear is allowed. 9 3/4-inch maximum mesh size. Maximum net length of 100 fathoms. No weight restriction on lead line. Use of additional weights and/or anchors attached directly to the lead line is allowed.

(5) Additional requirements for all Select Area commercial fisheries:

(a) Nets not specifically authorized for use may be onboard the vessel if properly stored, consistent with WAC 220-33-001.

(b) ALLOWABLE POSSESSION: Chinook, coho, pink and sockeye salmon and shad.

(c) Nets fished any time between official sunset and official sunrise must have lighted buoys on both ends of the net. If the net is attached to the boat, then one lighted buoy on the end of the net opposite the boat is required.

(6) Quick Reporting: This quick-reporting requirement applies to all seasons in this section. 24-hour quick-reporting is required for Washington wholesale dealers, as provided in WAC 220-69-240. Columbia River reports must be submitted within 24 hours of the closure of each fishing period.

Reviser's note: The unnecessary underscoring in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-33-01000W Columbia River season below Bonneville. (15-292)

WSR 15-19-084
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 15-339—Filed September 15, 2015, 3:20 p.m., effective September 15, 2015, 3:20 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-40-02700Y and 220-40-02700A; and amending WAC 220-40-027.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, and 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Catch of Willapa Bay natural-origin Chinook is significantly higher than anticipated and a modification of the commercial fishery is necessary to help ensure that conservation objectives are met. There is insufficient time to adopt permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 2.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: September 15, 2015.

James B. Scott, Jr.
for J. W. Unsworth
Director

NEW SECTION

WAC 220-40-02700A Willapa Bay salmon—Fall fishery. Notwithstanding the provisions of WAC 220-40-027:

(1) Effective immediately through 6:30 a.m. September 20, 2015, it is unlawful to fish for salmon for commercial purposes in waters of Willapa Bay.

(2) Effective 6:30 a.m. September 20 through 6:30 p.m. September 20, 2015, it is permissible to fish in waters of Willapa Bay Catch Area 2T.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-40-02700Y Willapa Bay salmon—Fall fishery.
(15-324)

The following section of the Washington Administrative Code is repealed effective 6:31 p.m. September 20, 2015:

WAC 220-40-02700A Willapa Bay salmon—Fall fishery.

WSR 15-19-088
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 15-340—Filed September 16, 2015, 1:58 p.m., effective September 17, 2015]

Effective Date of Rule: September 17, 2015.

Purpose: Amend recreational fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-310-18000Z.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, and 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The waters closed in emergency rule WAC 220-310-18000Z were closed to protect fish during unusually low water conditions. Recent rains and cooling temperatures have increased water levels, allowing fish to move more freely upriver and alleviating the need for additional protection. As such, WAC 220-310-18000Z is no longer needed and should be repealed.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: September 16, 2015.

J. W. Unsworth
Director

NEW SECTION [REPEALER]

The following section of the Washington Administrative Code is repealed effective September 17, 2015:

WAC 220-310-18000Z Freshwater exceptions to statewide rules—Coastal. (15-293)

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

WSR 15-19-089**EMERGENCY RULES****DEPARTMENT OF****FISH AND WILDLIFE**

[Order 15-341—Filed September 16, 2015, 2:00 p.m., effective September 17, 2015]

Effective Date of Rule: September 17, 2015.

Purpose: Amend recreational fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-310-18000B.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, and 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: These rivers were closed to protect fish during unusually low water conditions. Recent rains and cooling temperatures have increased water levels, allowing fish to move more freely upriver and alleviating the need for additional protection.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: September 16, 2015.

J. W. Unsworth
Director

NEW SECTION [REPEALER]

The following section of the Washington Administrative Code is repealed effective September 17, 2015:

WAC 220-310-18000B Freshwater exceptions to statewide rules—Coastal. (15-308)

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

WSR 15-19-093**EMERGENCY RULES****DEPARTMENT OF****FISH AND WILDLIFE**

[Order 15-344—Filed September 17, 2015, 11:38 a.m., effective September 17, 2015, 11:38 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Creates additional second deer permits in Central Okanogan, Omak and Conconully hunt areas.

Citation of Existing Rules Affected by this Order: Amending WAC 232-28-359.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.04.055, and 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: This emergency rule is needed to make adjustments to 2015 second deer hunt special permit seasons due to issues arising from wildfires that occurred during the summer of 2015. There is insufficient time to adopt permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: September 16, 2014 [2015].

J. W. Unsworth
Director

NEW SECTION

WAC 232-28-35900B 2015 Deer special permits. Notwithstanding the provisions of WAC 232-28-359, effective immediately until further notice, the following 2015 Deer Special Permits are amended to read as provided below. Unless otherwise amended, all permanent provisions of WAC 232-28-359 remain in effect.

Second Deer Hunts						
Second deer permits are only valid with the purchase of a second deer license. The second deer license must be for the same tag type as the first deer license.						
Hunt Name	Weapon/Tag	Hunters	Hunt Dates	Special Restrictions	Boundary	Permits
Central Okanogan B	Any	Any	Oct. 10-27	Antlerless	Deer Area 2014 and Public Land within Deer Area 2014	100
Omak B	Any	Any	Oct. 10-27	Antlerless	Deer Area 2015 and Public Land within Deer Area 2015	30
Conconully B	Any	Any	Oct. 10-27	Antlerless	Deer Area 2016 and Public Land within Deer Area 2016	100

**WSR 15-19-096
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 15-346—Filed September 17, 2015, 12:17 p.m., effective September 17, 2015, 12:17 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend work times in the aquatic plants and fish pamphlet for all aquatic plant removal activities except hand pulling.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-660-29000E; and amending WAC 220-660-290.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.12.045, and 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: A lack of snowpack from an unusually warm winter has resulted in drought conditions throughout much of Washington. A healthy snowpack slowly provides water to rivers and streams, helping to sustain fish through the drier summer months. But, with little or no snowpack, flows in many rivers dropped significantly and water temperatures increased - conditions that are lethal to fish. In response, the Washington department of fish and wildlife (WDFW) placed drought-related fishing closures and restrictions on nearly sixty rivers and streams.

Low water and higher than normal water temperatures limited fish movement and made them more susceptible to diseases. In addition, stream flows fell low enough to concentrate fish into small areas of refugia where they were highly susceptible to additional stress from disturbance caused by

aquatic plant removal. To protect fish life, WDFW aligned the work times for all aquatic plant removal activities except hand pulling with the drought-related fishing closures or restrictions now in effect. There was insufficient time to adopt permanent rules. Water temperatures and streamflows have improved due to changing weather patterns, so emergency rule changes for aquatic plant removal activities in some streams are being modified to return to permanent rule requirements.

The daily closures are intended to reduce additional stress to fish from aquatic plant removal activities during periods of the day when fish are stressed from elevated temperatures. In addition, some streams are closed to aquatic plant removal activities except hand pulling because of record low flows due to lack of winter snowpack and rainfall. Stream flows have fallen low enough to concentrate fish into small areas of refugia where they are highly susceptible to additional stress from disturbance at these temperatures [which] further reduces survival.

Many of the restrictions placed on various streams under previous emergency rules are repealed in this emergency rule. Lower air temperatures and recent rainfall have resulted in stream flows and water temperatures similar to average fall conditions. Those conditions are not expected to change considerably for the remaining times aquatic plant removal activity is authorized under the permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: September 17, 2015.

James B. Scott, Jr.
for J. W. Unsworth
Director

NEW SECTION

WAC 220-660-29000F Aquatic plant removal and control Notwithstanding the provisions of WAC 220-660-290, effective immediately until further notice, it is unlawful to violate the following provisions, provided that unless otherwise amended, all permanent rules remain in effect:

Chelan County

Wenatchee River from mouth to the Icicle River Road Bridge: Closed to all aquatic plant removal activities except hand pulling.

Icicle River from the mouth to 500 feet downstream of the Leavenworth National Fish Hatchery Barrier Dam: Closed to all aquatic plant removal activities except hand pulling.

Peshastin Creek and all tributaries: Closed daily to all aquatic plant removal activities from 2 PM to midnight except hand pulling.

Grays Harbor County

Black River (Grays Harbor and Thurston Counties) from the mouth upstream to Black Lake: Closed to all aquatic plant removal activities except hand pulling.

King County

Raging River from the mouth upstream: Closed to all aquatic plant removal activities except hand pulling.

Kittitas County

Little Naches River: Closed to suction dredging.

Teaway River, including West, Middle and North Forks: Closed to suction dredging.

Lewis County

Newaukum River and all tributaries: Closed to all aquatic plant removal activities except hand pulling.

Okanogan County

Okanogan River from the Hwy 97 Bridge immediately upstream of the mouth to Zosel Dam: Closed to all aquatic plant removal activities except hand pulling.

Similkameen River from the mouth upstream to Enloe Dam: Closed to all aquatic plant removal activities except hand pulling.

Skagit County

Suiattle River Tributaries Buck, Downey and Sulpher Creeks: Closed to all aquatic plant removal activities except hand pulling.

Snohomish County

Wallace River from the mouth upstream including all tributaries: Closed to all aquatic plant removal activities except hand pulling.

Thurston County

Black River (Grays Harbor and Thurston Counties) from the mouth upstream to Black Lake: Closed to all aquatic plant removal activities except hand pulling.

Whatcom County

South Fork Nooksack River from the mouth to Skookum Creek: Closed to all aquatic plant removal activities except hand pulling.

Yakima County

Ahtanum Creek, including North and Middle Forks: Closed to suction dredging.

Reviser's note: The spelling error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-660-29000E Aquatic plant removal and control.
(15-335)

WSR 15-19-097

EMERGENCY RULES

DEPARTMENT OF

FISH AND WILDLIFE

[Order 15-345—Filed September 17, 2015, 12:18 p.m., effective September 17, 2015, 12:18 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend authorized work times for suction dredging in the gold and fish rules for mineral prospecting and placer mining.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-660-30000E; and amending WAC 220-660-300.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.12.045, and 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: A lack of snowpack from an unusually warm winter has resulted in drought conditions throughout much of Washington. A healthy snowpack slowly provides water to rivers and streams, helping to sustain fish through the drier summer months. But, with little or no snowpack, flows in many rivers dropped significantly and water temperatures increased - conditions that are lethal to fish. In response, the Washington department of fish and wildlife (WDFW) placed drought-related fishing closures and restrictions on over sixty rivers and streams.

Low water and higher than normal water temperatures limited fish movement and made them more susceptible to diseases. In addition, stream flows fell low enough to concentrate fish into small areas of refugia where they were highly

susceptible to additional stress from disturbance caused by suction dredging. To protect fish life, WDFW aligned the authorized work times for suction dredging in the gold and fish rules for mineral prospecting and placer mining with drought-related fishing closures or restrictions in effect. There was insufficient time to adopt permanent rules. Water temperatures and streamflows have improved due to changing weather patterns, so emergency rule changes for mineral prospecting in some streams are being modified to return to permanent rule requirements.

Per permanent rule, work in the wetted perimeter or frequent scour zone is authorized from one-half hour before sunrise to one-half hour after sunset. The daily closures from 2 p.m. to one-half hour after sunset are intended to reduce additional stress to fish from suction dredging during periods of the day when fish are stressed from elevated temperatures. In addition, some streams are closed to suction dredging because of record low flows due to lack of winter snowpack and rainfall. Stream flows have fallen low enough to concentrate fish into small areas of refugia where they are highly susceptible to additional stress from disturbance at these temperatures [which] further reduces survival.

Many of the restrictions placed on various streams under previous emergency rules are repealed in this emergency rule. Lower air temperatures and recent rainfall have resulted in stream flows and water temperatures similar to average fall conditions. Those conditions are not expected to change considerably for the remaining times dredging is authorized under the permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: September 17, 2015.

James B. Scott, Jr.
for J. W. Unsworth
Director

NEW SECTION

WAC 220-660-30000F Mineral prospecting Notwithstanding the provisions of WAC 220-660-300, effective immediately until further notice, it is unlawful to violate the following provisions, provided that unless otherwise amended, all permanent rules remain in effect:

Chelan County

Wenatchee River from mouth to the Icicle River Road Bridge: Closed to suction dredging.

Icicle River from the mouth to 500 feet downstream of the Leavenworth National Fish Hatchery Barrier Dam: Closed to suction dredging.

Peshastin Creek and all tributaries: Closed daily to suction dredging from 2 PM to one-half hour after official sunset.

Grays Harbor County

Black River (Grays Harbor and Thurston Counties) from the mouth upstream to Black Lake: Closed to suction dredging.

King County

Raging River from the mouth upstream: Closed to suction dredging.

Kittitas County

Little Naches River: Closed to suction dredging.

Teanaway River, including West, Middle and North Forks: Closed to suction dredging.

Lewis County

Newaukum River and all tributaries: Closed to suction dredging.

Okanogan County

Okanogan River from the Hwy 97 Bridge immediately upstream of the mouth to Zosel Dam: Closed to suction dredging.

Similkameen River from the mouth upstream to Enloe Dam: Closed to suction dredging.

Skagit County

Suiattle River Tributaries Buck, Downey and Sulpher Creeks: Closed to suction dredging.

Snohomish County

Wallace River from the mouth upstream including all tributaries: Closed to suction dredging.

Thurston County

Black River (Grays Harbor and Thurston Counties) from the mouth upstream to Black Lake: Closed to suction dredging.

Whatcom County

South Fork Nooksack River from the mouth to Skookum Creek: Closed to suction dredging.

Yakima County

Ahtanum Creek, including North and Middle Forks: Closed to suction dredging.

Reviser's note: The spelling error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-660-30000E Mineral prospecting. (15-334)

WSR 15-19-098
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 15-349—Filed September 17, 2015, 3:09 p.m., effective September 17, 2015, 3:09 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The purpose of this rule making is to provide for treaty Indian fishing opportunity in the Columbia River while protecting salmon listed as threatened or endangered under the Endangered Species Act (ESA). This rule making implements federal court orders governing Washington's relationship with treaty Indian tribes and federal law governing Washington's relationship with Oregon.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-32-05100J; and amending WAC 220-32-051.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.04.130, 77.12.045, and 77.12.047.

Other Authority: *United States v. Oregon*, Civil No. 68-513-KI (D. Or.), Order Adopting 2008-2017 *United States v. Oregon* Management Agreement (Aug. 12, 2008) (Doc. No. 2546); *Northwest Gillnetters Ass'n v. Sandison*, 95 Wn.2d 638, 628 P.2d 800 (1981); Washington fish and wildlife commission policies concerning Columbia River fisheries; 40 Stat. 515 (Columbia River Compact).

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Reduces the size of the sanctuary at the Spring Creek Hatchery. Escapement goals are expected to be met and reducing the sanctuary may help reduce hatchery surplus. Continues to allow the sale of fish caught during the 2015 treaty commercial gillnet fall season. Continues to allow the sale of platform and hook and line caught fish from mainstem tribal fisheries in Zone 6. Sales of fish landed in the area downstream of Bonneville Dam (consistent with tribal MOU/MOAs) may also occur if the area is lawfully open for sales under tribal regulations. Similarly, the sale of fish caught in Yakama Nation tributary fisheries are allowed when open under Yakama Nation regulations. Nearly three hundred thousand adult fall Chinook are available to the treaty tribes for harvest based on the in-season forecast of nine hundred twenty-five thousand three hundred fish. Steelhead harvest is expected to remain within the guideline based on the pre-season forecast of forty-one thousand one hundred Group B fish. The quick reporting rule continues to be modified to require quick reporting within twenty-four hours of completing the fish ticket, which is intended to allow harvest to be tracked as the season progresses. Fisheries are consistent with the 2008-2017 Management Agreement and the associated biological opinion. Rule is consistent with action of the Columbia River Compact on July 29, August 12 and September 10 and 17, 2015. Confirms state rules with tribal rules. There is insufficient time to adopt permanent rules.

The Yakama, Warm Springs, Umatilla, and Nez Perce Indian tribes have treaty fishing rights in the Columbia River and inherent sovereign authority to regulate their fisheries. Washington and Oregon also have some authority to regulate fishing by treaty Indians in the Columbia River, authority that the states exercise jointly under the congressionally ratified Columbia River Compact. *Sohappy v. Smith*, 302 F. Supp. 899 (D. Or. 1969). The tribes and the states adopt parallel regulations for treaty Indian fisheries under the supervision of the federal courts. A court order sets the current parameters. *United States v. Oregon*, Civil No. 68-513-KI (D. Or.), Order Adopting 2008-2017 *United States v. Oregon* Management Agreement (Aug. 12, 2008) (Doc. No. 2546). Some salmon and steelhead stocks in the Columbia River are listed as threatened or endangered under the federal ESA. On May 5, 2008, the National Marine Fisheries Service issued a biological opinion under 16 U.S.C. § 1536 that allow[s] for some incidental take of these species in the fisheries as described in the 2008-2017 *U.S. v. Oregon* Management Agreement. Columbia River fisheries are monitored very closely to ensure consistency with court orders and ESA guidelines. Because conditions change rapidly, the fisheries are managed almost exclusively by emergency rule. As required by court order, the Washington (WDFW) and Oregon (ODFW) departments of fish and wildlife convene public hearings and invite tribal participation when considering proposals for new emergency rules affecting treaty fishing rights. *Sohappy*, 302 F. Supp. at 912. WDFW and ODFW then adopt regulations reflecting agreements reached.

Number of Sections Adopted in Order to Comply with Federal Statute: New 1, Amended 0, Repealed 1; Federal Rules or Standards: New 1, Amended 0, Repealed 1; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: September 17, 2015.

James B. Scott, Jr.
for J. W. Unsworth
Director

NEW SECTION

WAC 220-32-05100K Columbia River salmon seasons above Bonneville Dam. Notwithstanding the provisions of WAC 220-32-050, WAC 220-32-051, WAC 220-32-052 and WAC 220-32-058, effective immediately until further notice, it is unlawful for a person to take or possess salmon, steelhead, sturgeon, shad, carp, catfish, walleye, bass, or yellow perch taken for commercial purposes in Columbia River Salmon Management and Catch Reporting

Areas 1E1, 1F, 1G, and 1H, and in the Wind River, Klickitat River, and Drano Lake. However, those individuals possessing treaty fishing rights under the Yakama, Warm Springs, Umatilla, and Nez Perce treaties may fish for salmon, steelhead, sturgeon, shad, carp, catfish, walleye, bass, or yellow perch under the following provisions.

(1) Open Area: SMCRA 1F, 1G, 1H (Zone 6):

(a) Season:

(i) Immediately until 6:00 PM Saturday, Sept. 19, 2015.

(ii) 6:00 AM Monday Sept. 21 to 6:00 PM Friday, Sept 25, 2015.

(b) Gear: Gillnets only; 8-inch minimum mesh restriction.

(c) Allowable Sales: Salmon, steelhead, shad, carp, catfish, walleye, bass, or yellow perch. Sturgeon between 38-54 inches in fork length in the Bonneville Pool and sturgeon between 43-54 inches in fork length in The Dalles and John Day pools may be retained for subsistence purposes only.

(d) Standard sanctuaries for this gear type are in effect, **except** beginning 6:00 a.m. September 18 the Spring Creek Hatchery sanctuary will be reduced to a 150 foot radius around the hatchery ladder.

(2) Open Area: SMCRA 1F, 1G, 1H (Zone 6):

(a) Season: Immediately until further notice.

(b) Gear: Hoop nets, dip bag nets, and rod and reel with hook and line.

(c) Allowable sale: Salmon, steelhead, shad, carp, catfish, walleye, bass, or yellow perch. Sturgeon between 38-54 inches in fork length in the Bonneville Pool and sturgeon between 43-54 inches in fork length in The Dalles and John Day pools may be retained for subsistence purposes only. Live release of all oversize and under-size sturgeon is required.

(d) All sanctuaries for these gear types are in effect.

(3) Columbia River Tributaries upstream of Bonneville Dam:

(a) Season: Immediately until further notice, and only during those days and hours when the tributaries listed below are open under lawfully enacted Yakama Nation tribal subsistence fishery regulations for enrolled Yakama Nation members.

(b) Area: Drano Lake, Wind River and Klickitat River.

(c) Gear: Hoop nets, dip bag nets, and rod and reel with hook-and-line. Gill nets may only be used in Drano Lake.

(d) Allowable Sales: Salmon, steelhead, shad, carp, catfish, walleye, bass, or yellow perch. Sturgeon between 43-54 inches fork length harvested in tributaries within The Dalles or John Day Pools and sturgeon between 38-54 inches fork length harvested in tributaries within Bonneville pool may not be sold but may be kept for subsistence purposes only. Live release of all oversize and under-size sturgeon is required.

(4) Open Area: SMCRA 1E1. Each of the four Columbia River treaty tribes has an MOA or MOU with the Washington Department of Fish and Wildlife for tribal fisheries in the area just downstream of Bonneville Dam (within SMCRA 1E1). Tribal fisheries in this area may only occur in accordance with the appropriate MOA or MOU specific to each tribe, and only within any specific regulations set by each tribe.

(a) Participants:

(i) Tribal members may participate under the conditions described in the 2007 Memorandum of Agreement (MOA) with the Yakama Nation (YN), in the 2010 Memorandum of Understanding (MOU) with the Confederated Tribes of the Umatilla Indian Reservation (CTUIR), in the 2010 MOU with the Confederated Tribes of the Warm Spring Reservation (CTWS), and in the 2013 MOU with the Nez Perce Tribe.

(ii) Tribal members fishing below Bonneville Dam must carry an official tribal enrollment card.

(b) Season: Immediately until further notice. Open only during those days and hours when open under lawfully enacted tribal subsistence fishery regulations for enrolled tribal members.

(c) Allowable gear: Hoop nets, dip bag nets, and rod and reel with hook and line.

(d) Allowable Sales: Salmon, steelhead, shad, carp, catfish, walleye, bass, or yellow perch. Sturgeon retention is prohibited for any purpose. Sale of platform or hook-and-line-caught fish is allowed. Sales may not occur on USACE property.

(5) 24-hour quick reporting is required as provided in WAC 220-69-240, for Washington wholesale dealers for all areas, except that all landings from treaty fisheries described above must be reported within 24-hours of completing the fish ticket (not 24-hours after the period concludes).

(6) Sales of fish are allowed after open period concludes, as long as the fish sold were landed during the open period.

Reviser's note: The typographical errors in the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-32-05100J Columbia River salmon seasons above Bonneville Dam. (15-328)

WSR 15-19-101 EMERGENCY RULES DEPARTMENT OF FISH AND WILDLIFE

[Order 15-348—Filed September 17, 2015, 4:53 p.m., effective September 17, 2015, 4:53 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend commercial salmon troll fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-24-04000D; and amending WAC 220-24-040.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.12.045, and 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of

notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Sufficient coho quota remains for the troll fishery to allow an increase in weekly vessel coho limits, and for retention of unmarked coho in Catch Areas 1 and 2. These rules are adopted at the recommendation of the Pacific Fisheries Management Council, in accordance with preseason fishing plans. There is insufficient time to adopt permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: September 17, 2015.

James B. Scott, Jr.
for J. W. Unsworth
Director

NEW SECTION

WAC 220-24-0400E All-citizen commercial salmon troll. Notwithstanding the provisions of WAC 220-24-040, effective immediately until further notice, it is unlawful to fish for salmon with troll gear or to land salmon taken with troll gear into a Washington port except during the seasons provided for in this section:

(1) Salmon Management and Catch Reporting Areas 1, 2, 3, and that portion of Area 4 west of 125°05'00" W longitude and south of 48°23'00" N latitude, open:

September 18 through September 22, 2015.

(2) Landing and possession limits:

(a) 40 Chinook and 80 coho per boat per each entire open period for Catch Areas 1 and 2.

(b) 40 Chinook and 50 marked coho per boat per each entire open period for Catch Areas 3 and 4.

(c) No vessel may possess, land or deliver more than 40 chinook and 80 coho during any open period. The Cape Flattery and Columbia River Control Zones are closed. Mandatory Yelloweye Rockfish Conservation Area is closed. The Grays Harbor Control Zone is closed.

(d) No unmarked coho may be possessed or landed in Catch Areas 3 or 4.

(3) Minimum size for Chinook salmon is 28 inches in length. Minimum size for Coho salmon is 16 inches in length. No minimum size for pink, sockeye, or chum salmon, except no chum retention north of Cape Alava, Washington. It is unlawful to possess wild coho salmon in Catch Areas 3 and 4.

(3) Lawful troll gear is restricted to all legal troll gear with single-point, single-shank barbless hooks.

(4) Fishers must land and deliver their catch within 24 hours of any closure of a fishery provided for in this section, and vessels fishing or in possession of salmon while fishing north of Leadbetter Point must land and deliver their fish within the area and north of Leadbetter Point. Vessels fishing or in possession of salmon while fishing south of Leadbetter Point must land and deliver their fish within the area and south of Leadbetter Point. Vessels in possession of salmon north of the Queets River may not cross the Queets River line without first notifying WDFW by phone at (360) 902-2739 or by email at Douglas.Milward@dfw.wa.gov with area fished, total Chinook and coho catch on board, and destination. Vessels in possession of salmon south of the Queets River may not cross the Queets River line without first notifying WDFW by phone at (360) 902-2739 or by email at Douglas.Milward@dfw.wa.gov with Area fished, total Chinook and coho catch on board, and destination.

(6) The Cape Flattery Control Zone is defined as the area from Cape Flattery (48°23'00" N latitude) to the northern boundary of the U.S. Exclusive Economic Zone, and the area from Cape Flattery south to Cape Alava, 48°10'00" N latitude, and east of 125°05'00" W longitude.

(7) Columbia Control Zone - This is defined as an area at the Columbia River mouth, bounded on the west by a line running northeast/southwest between the red lighted Buoy #4 (46°13'35" N. Lat., 124°06'50" W. long.) and the green lighted Buoy #7 (46°15'09" N. lat., 124°06'16" W. long.); on the east, by the Buoy #10 line, which bears north/south at 357° true from the south jetty at 46°14'00" N. lat., 124°03'07" W. long, to its intersection with the north jetty; on the north, by a line running northeast/southwest between the green lighted Buoy #7 to the tip of the north jetty (46°14'48" N. lat., 124°05'20" W. long.), and then along the north jetty to the point of intersection with the Buoy #10 line; and, on the south, by a line running northeast/southwest between the red lighted Buoy #4 and tip of the south jetty (46°14'03" N. lat., 124°04'05" W. long.), and then along the south jetty to the point of intersection with the Buoy #10 line.

(8) Mandatory Yelloweye Rockfish Conservation Area - This is defined as the area in Salmon Management and Catch Reporting Area 3 from 48°00.00'N latitude; 125°14.00'W longitude to 48°02.00'N latitude; 125°14.00'W longitude to 48°02.00'N latitude; 125°16.50'W longitude to 48°00.00'N latitude; 125°16.50'W longitude and connecting back to 48°00.00'N latitude; 125°14.00'W longitude.

(9) Grays Harbor Control Zone - The area defined by a line drawn from the Westport Lighthouse (46°53.18'N latitude, 124°07.01'W longitude) to Buoy #2 (46°52.42'N latitude, 124°12.42'W longitude) to Buoy #3 (46°55.00'N latitude, 124°14.48'W longitude) to the Grays Harbor north jetty (46°55.36'N latitude, 124°10.51'W longitude).

(10) It is unlawful to fish in Salmon Management and Catch Reporting Areas 1, 2, 3 or 4 with fish on board taken south of Cape Falcon, Oregon; and all fish taken from Salmon Management and Catch Reporting Areas 1, 2, 3, and 4 must be landed before fishing south of Cape Falcon, Oregon.

(11) It is unlawful for wholesale dealers and trollers retailing their fish to fail to report their landing by 10:00 a.m. the day following landing. Ticket information can be telephoned in by calling 1-866-791-1279, or faxing the information to (360) 902-2949, or e-mailing to trollfishtickets@dfw.wa.gov. Report the dealer name, the dealer license number, the purchasing location, the date of purchase, the fish ticket numbers, the gear used, the catch area, the species, the total number for each species, and the total weight for each species, including halibut.

Reviser's note: The unnecessary underscoring in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

Reviser's note: The typographical errors in the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-24-04000D All-citizen commercial salmon troll.
(15-314)

WSR 15-19-106

EMERGENCY RULES

SECRETARY OF STATE

[Filed September 18, 2015, 9:14 a.m., effective September 18, 2015, 9:14 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: To clarify the administrative code section on trademark filings.

Citation of Existing Rules Affected by this Order:
Amending WAC 434-12-025.

Statutory Authority for Adoption: RCW 19.77.115.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: To clarify the administrative code to provide improved customer service, this rule change is necessary to resolve differences and allow a change in comparison processes. The timing is necessary to settle pending legal action and avoid legal expenses.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: September 18, 2015.

Mark Neary
Assistant Secretary of State

AMENDATORY SECTION (Amending WSR 04-04-018, filed 1/23/04, effective 2/23/04)

WAC 434-12-025 Document and specimen standards for trademark filing. (1) ~~((In addition to the requirements of WAC 434-112-040, the following rules apply to trademark filings:~~

~~((a)))~~ Specimens submitted in support of a trademark filing must:

~~((+))~~ ~~((a))~~ Be of sufficient quality, size and clarity to allow the ~~((corporations))~~ division to create and maintain an accurate digital image of the specimen; and

~~((+))~~ ~~((b))~~ Demonstrate that the trademark is in use in commerce; preliminary design artwork is not acceptable.

~~((+))~~ ~~((c))~~ Be in pdf (portable document format), if filing online.

~~((2))~~ Specimens submitted in support of a trademark reservation:

~~((+))~~ ~~((a))~~ Must be of sufficient quality, size and clarity to allow the ~~((corporations))~~ division to create and maintain an accurate digital image of the specimen; and

~~((+))~~ ~~((b))~~ May be in the form of preliminary design artwork so long as the design clearly describes the trademark to be reserved(~~((:~~

~~((2)))~~; and

~~((c))~~ Must be in pdf format, if filing online.

~~((3))~~ Corporations division staff may reject submissions ~~((that do not meet these requirements))~~ based on the following criteria:

~~((a))~~ Application is incomplete;

~~((b))~~ Application is in pencil or unable to be scanned as a readable image;

~~((c))~~ Trademark is not distinguishable from another on file in the secretary's office by comparing:

~~((i))~~ Similarity or dissimilarity of marks in their entireties to appearance; or

~~((ii))~~ Similarity or dissimilarity of goods and services classifications.

WSR 15-19-107

EMERGENCY RULES

DEPARTMENT OF

FISH AND WILDLIFE

[Order 15-347—Filed September 18, 2015, 11:22 a.m., effective September 18, 2015, 11:22 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend recreational fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-310-19500K; and amending WAC 220-310-195.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, and 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: An emergency rule is needed to reopen American River and Swauk Creek as cooler weather and recent precipitation in the Cascades have reduced mid-to-late afternoon water temperatures. Lifting these restrictions will provide angling opportunity. The remaining restrictions will be lifted once the weather conditions have improved. There is insufficient time to adopt permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: September 18, 2015.

James B. Scott, Jr.
for J. W. Unsworth
Director

NEW SECTION

WAC 220-310-19500M Freshwater exceptions to statewide rules—Eastside. Notwithstanding the provisions of WAC 220-310-195, effective immediately until further notice, it is unlawful to violate the provisions below. Unless otherwise amended, all permanent rules remain in effect.

(1) Ahtanum Creek, including North and Middle Forks: Closed

(2) Little Naches River: Closed

(3) Teanaway River, including West, Middle and North Forks: Closed

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-310-19500K Freshwater exceptions to statewide rules—Eastside. (15-300)

WSR 15-19-108
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 15-350—Filed September 18, 2015, 11:23 p.m., effective September 18, 2015, 11:23 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: This emergency rule will allow nontreaty commercial fishing opportunities in the Columbia River while protecting fish listed as threatened or endangered under the Endangered Species Act (ESA). This rule implements federal court orders governing Washington's relationship with treaty Indian tribes, federal law governing Washington's relationship with Oregon, and Washington fish and wildlife commission policy guidance for Columbia River fisheries.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-33-01000X; and amending WAC 220-33-010.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.04.130, 77.12.045, and 77.12.047.

Other Authority: *United States v. Oregon*, Civil No. 68-513-KI (D. Or.), Order Adopting 2008-2017 *United States v. Oregon* Management Agreement (Aug. 12, 2008) (Doc. No. 2546); *Northwest Gillnetters Ass'n v. Sandison*, 95 Wn.2d 638, 628 P.2d 800 (1981); Washington fish and wildlife commission policies concerning Columbia River fisheries; 40 Stat. 515 (Columbia River Compact).

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Sets two mainstem commercial fishing periods during the late fall season. Select area sites remain open. Chinook remain available for commercial harvest. Harvest estimates are within ESA limits and sharing guidelines. The seasons are consistent with the *U.S. v. Oregon* 2008-2017 Interim Management Agreement and the fall Chinook allocation agreement developed through the North of Falcon process. The rule is consistent with compact action of July 29 and September 17, 2015. There is insufficient time to adopt permanent rules.

Washington and Oregon jointly regulate Columbia River fisheries under the congressionally ratified Columbia River Compact. Four Indian tribes have treaty fishing rights in the Columbia River. The treaties preempt state regulations that fail to allow the tribes an opportunity to take a fair share of the available fish, and the states must manage other fisheries accordingly. *Sohappy v. Smith*, 302 F. Supp. 899 (D. Or. 1969). A federal court order sets the current parameters for sharing between treaty Indians and others. *United States v. Oregon*, Civil No. 68-513-KI (D. Or.), Order Adopting 2008-2017 *United States v. Oregon* Management Agreement (Aug. 12, 2008) (Doc. No. 2546).

Some Columbia River Basin salmon and steelhead stocks are listed as threatened or endangered under the federal ESA. On May 5, 2008, the National Marine Fisheries Service issued a biological opinion under 16 U.S.C. § 1536 that allows for some incidental take of these species in treaty

and nontreaty Columbia River fisheries governed by the 2008-2017 *U.S. v. Oregon* Management Agreement. The Washington and Oregon fish and wildlife commissions have developed policies to guide the implementation of such biological opinions in the states' regulation of nontreaty fisheries.

Columbia River nontreaty fisheries are monitored very closely to ensure compliance with federal court orders, the ESA, and commission guidelines. Because conditions change rapidly, the fisheries are managed almost exclusively by emergency rule. Representatives from the Washington (WDFW) and Oregon (ODFW) departments of fish and wildlife convene public hearings and take public testimony when considering proposals for new emergency rules. WDFW and ODFW then adopt regulations reflecting agreements reached.

Number of Sections Adopted in Order to Comply with Federal Statute: New 1, Amended 0, Repealed 1; Federal Rules or Standards: New 1, Amended 0, Repealed 1; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: September 18, 2015.

James B. Scott, Jr.
for J. W. Unsworth
Director

NEW SECTION

WAC 220-33-01000Y Columbia River season below Bonneville. Notwithstanding the provisions of WAC 220-33-010, it is unlawful for a person to take or possess salmon for commercial purposes from Columbia River Salmon Management and Catch Reporting Areas (SMCRA) 1A, 1B, 1C, 1D, and 1E, except as provided in this section.

(1) Mainstem Columbia River

(a) SEASON: 8:00 PM September 20 to 6:00 AM September 21, 2015 and 8:00 PM September 22 to 6:00 AM September 23, 2015.

(b) AREA: SMCRA 1D, 1E. The deadline at the lower end of SMCRA 1D is defined as a straight line projected from the Warrior Rock Lighthouse on the Oregon shore easterly through the green navigation buoy #1 and continuing to the Washington shore.

(c) GEAR: Drift gillnets only. 8-inch minimum mesh size. Nets not specifically authorized for use may be onboard the vessel if properly stored, consistent with WAC 220-33-001. Lighted buoys required.

(d) SANCTUARIES: Washougal and Sandy Rivers. The lower end of the Washougal sanctuary is **extended** and defined as: a line originating at USCG green marker #1 near

the Washington shore due south to the downstream Fisher Quarry Channel range light on the western end of Ackerman Island then from the upstream tip of Ackerman Island (Sand Island) across to the downstream (western) tip of Lady Island.

(e) ALLOWABLE POSSESSION: Chinook, Coho, pink and sockeye salmon and shad.

(2) Deep River Select Area.

(a) SEASON: Open hours 6:00 PM to 9:00 AM.

(i) Monday, Tuesday, Wednesday, Thursday and Friday nights effective immediately through September 26, 2015

(ii) Monday, Tuesday, Wednesday, and Thursday nights September 28 through October 16, 2015

(iii) 6:00 PM Monday October 19 to 9:00 AM Tuesday October 20, 2015

(b) AREA: The Deep River Select Area. Concurrent-jurisdiction waters extend downstream of the Highway 4 Bridge.

(c) GEAR: Gillnet. Monofilament gear is allowed. 6-inch maximum mesh. Net length: 100 fathoms maximum. No weight restriction on the lead line. Use of additional weights or anchors attached directly to the lead line is allowed. Nets may not be tied off to stationary structures. Nets may not fully cross the navigation channel. It is unlawful to operate in any river, stream or channel any gillnet gear longer than three-fourths the width of the river, stream, or channel. "River, stream, or channel width" is defined as bank-to-bank, where the water meets the banks, regardless of the time of tide or the water level. This emergency provision supersedes the permanent rule and all other rules that conflict with it.

(3) Tongue Point/South Channel Select Area.

(a) SEASON: Open hours 4:00 PM to 10:00 AM. Open days are Sunday, Monday, Tuesday, Wednesday, and Thursday nights from September 20 through October 30, 2015.

(b) AREA: Tongue Point and South Channel. All waters in this fishing area are concurrent-jurisdiction waters.

(c) GEAR: Gillnet; 6-inch maximum mesh. Net length: 250 fathoms maximum.

(i) Tongue Point fishing area: weight not to exceed two pounds in any one fathom. Fishers participating in the Tongue Point fishery may have un-stored gillnets legal for the South Channel fishing area onboard the vessel.

(ii) South Channel area: no weight restriction on lead-line. Use of additional weights and/or anchors attached directly to the leadline is allowed

(4) Blind Slough/Knappa Slough Select Area.

(a) SEASON: Open hours are: 6:00 PM to 10:00 AM. Open days are: Sunday, Monday, Tuesday, Wednesday, and Thursday nights from September 20 through October 30, 2015.

(b) AREA: Blind Slough and Knappa Slough. An area closure of an approximately 100-foot radius at the mouth of Big Creek is in effect. Concurrent jurisdiction waters include all areas in Knappa Slough and downstream of the Railroad Bridge in Blind Slough.

(c) GEAR: Gillnet. Monofilament gear is allowed. 9 3/4-inch maximum mesh size. Maximum net length of 100 fathoms. No weight restriction on lead line. Use of additional weights and/or anchors attached directly to the lead line is allowed.

(5) Additional requirements for all Select Area commercial fisheries:

(a) Nets not specifically authorized for use may be onboard the vessel if properly stored, consistent with WAC 220-33-001.

(b) ALLOWABLE POSSESSION: Chinook, Coho, pink and sockeye salmon and shad.

(c) Nets fished any time between official sunset and official sunrise must have lighted buoys on both ends of the net. If the net is attached to the boat, then one lighted buoy on the end of the net opposite the boat is required.

(6) Quick Reporting: 24-hour quick reporting is required for Washington wholesale dealers for all seasons in this section, as provided in WAC 220-69-240. Columbia River reports must be submitted within 24 hours of the closure of each fishing period.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-33-01000X Columbia River season below Bonneville. (15-338)

**WSR 15-19-111
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 15-337—Filed September 18, 2015, 3:25 p.m., effective September 22, 2015, 10:00 p.m.]

Effective Date of Rule: September 22, 2015, 10:00 p.m.

Purpose: Amend Puget Sound commercial smelt rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-49-05600B; and amending WAC 220-49-056.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.04.055, and 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The fish and wildlife commission have taken action to implement a sixty thousand pound annual quota for the Puget Sound smelt commercial fishery. This emergency rule closes Puget Sound to commercial smelt fishing, as the annual quota is expected to be reached. There is insufficient time to adopt permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: September 18, 2015.

James B. Scott, Jr.
for J. W. Unsworth
Director

NEW SECTION

WAC 220-49-05600B Puget Sound smelt commercial fishery—Seasons. Notwithstanding the provisions of WAC 220-49-056, effective 10:00 p.m. September 22 through December 31, 2015, it is unlawful to take, fish for or possess smelt for commercial purposes in Puget Sound.

REPEALER

The following section of the Washington Administrative Code is repealed effective January 1, 2016:

WAC 220-49-05600B Puget Sound smelt commercial fishery—Seasons.

**WSR 15-19-125
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 15-351—Filed September 21, 2015, 10:27 a.m., effective September 21, 2015, 10:27 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend work times in the aquatic plants and fish pamphlet for all aquatic plant removal activities except hand pulling.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-660-29000F; amending WAC 220-660-290.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.12.045, and 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: This filing corrects the spelling of Sulphur Creek (previously spelled "Sulpher" Creek) in Skagit County.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or

Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: September 21, 2015.

J. W. Unsworth
Director

NEW SECTION

WAC 220-660-29000G Aquatic plant removal and control Notwithstanding the provisions of WAC 220-660-290, effective immediately until further notice, it is unlawful to violate the following provisions, provided that unless otherwise amended, all permanent rules remain in effect:

Chelan County

Wenatchee River from mouth to the Icicle River Road Bridge: Closed to all aquatic plant removal activities except hand pulling.

Icicle River from the mouth to 500 feet downstream of the Leavenworth National Fish Hatchery Barrier Dam: Closed to all aquatic plant removal activities except hand pulling.

Peshastin Creek and all tributaries: Closed daily to all aquatic plant removal activities from 2 PM to midnight except hand pulling.

Grays Harbor County

Black River (Grays Harbor and Thurston Counties) from the mouth upstream to Black Lake: Closed to all aquatic plant removal activities except hand pulling.

King County

Raging River from the mouth upstream: Closed to all aquatic plant removal activities except hand pulling.

Lewis County

Newaukum River and all tributaries: Closed to all aquatic plant removal activities except hand pulling.

Okanogan County

Okanogan River from the Hwy 97 Bridge immediately upstream of the mouth to Zosel Dam: Closed to all aquatic plant removal activities except hand pulling.

Similkameen River from the mouth upstream to Enloe Dam: Closed to all aquatic plant removal activities except hand pulling.

Skagit County

Suiattle River Tributaries Buck, Downey and Sulphur Creeks: Closed to all aquatic plant removal activities except hand pulling.

Snohomish County

Wallace River from the mouth upstream including all tributaries: Closed to all aquatic plant removal activities except hand pulling.

Stevens County

Colville River and all tributaries from mouth to headwaters: Closed daily to all aquatic plant removal activities from 2 PM to midnight except hand pulling.

Thurston County

Black River (Grays Harbor and Thurston Counties) from the mouth upstream to Black Lake: Closed to all aquatic plant removal activities except hand pulling.

Whatcom County

South Fork Nooksack River from the mouth to Skookum Creek: Closed to all aquatic plant removal activities except hand pulling.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-660-29000F Aquatic plant removal and control.
(15-346)

WSR 15-19-126

EMERGENCY RULES

DEPARTMENT OF FISH AND WILDLIFE

[Order 15-352—Filed September 21, 2015, 10:31 a.m., effective September 21, 2015, 10:31 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend authorized work times for suction dredging in the gold and fish rules for mineral prospecting and placer mining.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-660-30000F; and amending WAC 220-660-300.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.12.045, and 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: This filing corrects the spelling of Sulphur Creek (previously spelled "Sulpher" Creek) in Skagit County.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: September 21, 2015.

J. W. Unsworth
Director

NEW SECTION

WAC 220-660-30000G Mineral prospecting Notwithstanding the provisions of WAC 220-660-300, effective immediately until further notice, it is unlawful to violate the following provisions, provided that unless otherwise amended, all permanent rules remain in effect:

Chelan County

Wenatchee River from mouth to the Icicle River Road Bridge: Closed to suction dredging.

Icicle River from the mouth to 500 feet downstream of the Leavenworth National Fish Hatchery Barrier Dam: Closed to suction dredging.

Peshastin Creek and all tributaries: Closed daily to suction dredging from 2 PM to one-half hour after official sunset.

Grays Harbor County

Black River (Grays Harbor and Thurston Counties) from the mouth upstream to Black Lake: Closed to suction dredging.

King County

Raging River from the mouth upstream: Closed to suction dredging.

Lewis County

Newaukum River and all tributaries: Closed to suction dredging.

Okanogan County

Okanogan River from the Hwy 97 Bridge immediately upstream of the mouth to Zosel Dam: Closed to suction dredging.

Similkameen River from the mouth upstream to Enloe Dam: Closed to suction dredging.

Skagit County

Suiattle River Tributaries Buck, Downey and Sulphur Creeks: Closed to suction dredging.

Snohomish County

Wallace River from the mouth upstream including all tributaries: Closed to suction dredging.

Stevens County

Colville River and all tributaries from mouth to headwaters: Closed daily to suction dredging from 2 PM to one-half hour after official sunset.

Thurston County

Black River (Grays Harbor and Thurston Counties) from the mouth upstream to Black Lake: Closed to suction dredging.

Whatcom County

South Fork Nooksack River from the mouth to Skookum Creek: Closed to suction dredging.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-660-30000F Mineral prospecting. (15-345)

WSR 15-19-147

EMERGENCY RULES

DEPARTMENT OF

FISH AND WILDLIFE

[Order 15-354—Filed September 22, 2015, 2:26 p.m., effective September 22, 2015, 2:26 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend recreational fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-310-19000L; and amending WAC 220-310-190.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, and 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: An emergency rule is needed to reopen the Suiattle River tributaries and the South Fork Nooksack River as the conservation concern no longer applies. The spring Chinook salmon have finished spawning for the season. The closures on the Raging and Wallace rivers will be lifted once the Chinook salmon have finished spawning and conditions return to normal. There is insufficient time to adopt permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: September 22, 2015.

Joe Stohr
for J. W. Unsworth
Director

NEW SECTION

WAC 220-310-19000M Freshwater exceptions to statewide rules—Puget Sound. Notwithstanding the provisions of WAC 220-310-190, effective immediately until further notice, it is unlawful to violate the following provisions, provided that unless otherwise amended, all permanent rules remain in effect:

(1) **South Fork Nooksack** (Whatcom Co.) From the mouth to Skookum Creek including tributaries are closed to all fishing through September 30, 2015.

(2) **Raging River** (King Co.) From the mouth upstream closed to all fishing.

(3) **Wallace River** (Snohomish Co.). From the mouth upstream including all tributaries closed to all fishing.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-310-19000L Freshwater exceptions to statewide rules—Puget Sound. (15-331)

WSR 15-19-165
EMERGENCY RULES
LIQUOR AND CANNABIS
BOARD

[Filed September 23, 2015, 11:07 a.m., effective September 23, 2015, 11:07 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Legislation passed in the 2015 legislative session directs the Washington state liquor and cannabis board to regulate the medical marijuana market. Emergency rules are needed to provide clarity to the marijuana licensees and potential marijuana license applicants regarding the application process and requirements for medical marijuana. Licenses will need to be issued to ensure that medical marijuana will be available to patients by the date that collective gardens are mandated to be closed, July 1, 2016.

Citation of Existing Rules Affected by this Order: Amending WAC 314-55-010, 314-55-020, 314-55-050, 314-55-075, 314-55-077, 314-55-080, and 314-55-081.

Statutory Authority for Adoption: RCW 69.50.342 and 69.50.345.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Immediate adoption of these rules is necessary for the preservation of the public health, safety, and welfare. Legislation passed in the 2015 legislative session mandates collective gardens be closed by July 1, 2016. Medical marijuana patients need a smooth transition to obtaining their medication from an alternative source, the legal marijuana market. Licenses will need to be issued to

ensure that medical marijuana will be available to patients by the date that collective gardens are mandated to be closed, July 1, 2016.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 1, Amended 6, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 1, Amended 6, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: September 23, 2015.

Jane Rushford
Chairman

AMENDATORY SECTION (Amending WSR 15-11-107, filed 5/20/15, effective 6/20/15)

WAC 314-55-010 Definitions. Following are definitions for the purpose of this chapter. Other definitions are in RCW 69.50.101.

(1) "Applicant" or "marijuana license applicant" means any person or business entity who is considered by the board as a true party of interest in a marijuana license, as outlined in WAC 314-55-035. However, for purposes only of determining an application's priority under RCW 69.50.331 (1)(a), only the person or business entity (sole proprietorship, partnership of any type, limited liability company, privately or publicly held corporation, or nonprofit corporation) that is applying for the license will be considered the applicant.

(2) "Batch" means a quantity of marijuana-infused product containing material from one or more lots of marijuana.

(3) "Business name" or "trade name" means the name of a licensed business as used by the licensee on signs and advertising.

(4) "Child care center" means an entity that regularly provides child day care and early learning services for a group of children for periods of less than twenty-four hours licensed by the Washington state department of early learning under chapter 170-295 WAC.

(5) "Consultant" means an expert who provides advice or services in a particular field, whether a fee is charged or not. A consultant who is in receipt of, or has the right to receive, a percentage of the gross or net profit from the licensed business during any full or partial calendar or fiscal year is a true party of interest and subject to the requirements of WAC 314-55-035. A consultant who exercises any control over an applicant's or licensee's business operations is also subject to the requirements of WAC 314-55-035(4).

(6) "Elementary school" means a school for early education that provides the first four to eight years of basic educa-

tion and recognized by the Washington state superintendent of public instruction.

(7) "Employee" means any person performing services on a licensed premises for the benefit of the licensee.

(8) "Financier" means any person or entity, other than a banking institution, that has made or will make an investment in the licensed business. A financier can be a person or entity that provides money as a gift, loans money to the applicant/business and expects to be paid back the amount of the loan with or without interest, or expects any percentage of the profits from the business in exchange for a loan or expertise.

(9) "Game arcade" means an entertainment venue featuring primarily video games, simulators, and/or other amusement devices where persons under twenty-one years of age are not restricted.

(10) "Intermediate product" means marijuana flower lots or other material lots that have been converted by a marijuana processor to a marijuana concentrate or marijuana-infused product that must be further processed prior to retail sale.

(11) "Library" means an organized collection of resources made accessible to the public for reference or borrowing supported with money derived from taxation.

(12) "Licensee" or "marijuana licensee" means any person or entity that holds a marijuana license, or any person or entity who is a true party of interest in a marijuana license, as outlined in WAC 314-55-035.

(13) "Lot" means either of the following:

(a) The flowers from one or more marijuana plants of the same strain. A single lot of flowers cannot weigh more than five pounds; or

(b) The trim, leaves, or other plant matter from one or more marijuana plants. A single lot of trim, leaves, or other plant matter cannot weigh more than fifteen pounds.

(14) "Marijuana strain" means a pure breed or hybrid variety of Cannabis reflecting similar or identical combinations of properties such as appearance, taste, color, smell, cannabinoid profile, and potency.

(15) "Medical marijuana" is defined by rule of the department of health.

(16) "Member" means a principal or governing person of a given entity(;) including, but not limited to: LLC member/manager, president, vice-president, secretary, treasurer, CEO, director, stockholder, partner, general partner, limited partner. This includes all spouses of all principals or governing persons named in this definition and referenced in WAC 314-55-035.

~~((16))~~ (17) "Paraphernalia" means items used for the storage or use of usable marijuana, marijuana concentrates, or marijuana-infused products, such as, but not limited to, lighters, roach clips, pipes, rolling papers, bongs, and storage containers. Items for growing, cultivating, and processing marijuana, such as, but not limited to, butane, lights, and chemicals are not considered "paraphernalia."

~~((17))~~ (18) "Pesticide" means, but is not limited to: (a) Any substance or mixture of substances intended to prevent, destroy, control, repel, or mitigate any insect, rodent, snail, slug, fungus, weed, and any other form of plant or animal life or virus, except virus on or in a living person or other animal which is normally considered to be a pest; (b) any substance or mixture of substances intended to be used as a plant regu-

lator, defoliant, or desiccant; and (c) any spray adjuvant. Pesticides include substances commonly referred to as herbicides, fungicides, insecticides, and cloning agents.

~~((18))~~ (19) "Perimeter" means a property line that encloses an area.

~~((19))~~ (20) "Plant canopy" means the square footage dedicated to live plant production, such as maintaining mother plants, propagating plants from seed to plant tissue, clones, vegetative or flowering area. Plant canopy does not include areas such as space used for the storage of fertilizers, pesticides, or other products, quarantine, office space, etc.

~~((20))~~ (21) "Playground" means a public outdoor recreation area for children, usually equipped with swings, slides, and other playground equipment, owned and/or managed by a city, county, state, or federal government.

~~((21))~~ (22) "Public park" means an area of land for the enjoyment of the public, having facilities for rest and/or recreation, such as a baseball diamond or basketball court, owned and/or managed by a city, county, state, federal government, or metropolitan park district. Public park does not include trails.

~~((22))~~ (23) "Public transit center" means a facility located outside of the public right of way that is owned and managed by a transit agency or city, county, state, or federal government for the express purpose of staging people and vehicles where several bus or other transit routes converge. They serve as efficient hubs to allow bus riders from various locations to assemble at a central point to take advantage of express trips or other route to route transfers.

~~((23))~~ (24) "Recreation center or facility" means a supervised center that provides a broad range of activities and events intended primarily for use by persons under twenty-one years of age, owned and/or managed by a charitable non-profit organization, city, county, state, or federal government.

~~((24))~~ (25) "Residence" means a person's address where he or she physically resides and maintains his or her abode.

~~((25))~~ (26) "Secondary school" means a high and/or middle school: A school for students who have completed their primary education, usually attended by children in grades seven to twelve and recognized by the Washington state superintendent of public instruction.

~~((26))~~ (27) "Selling price" means the same meaning as in RCW 82.08.010, except that when the product is sold under circumstances where the total amount of consideration paid for the product is not indicative of its true value. Selling price means the true value of the product sold as determined or agreed to by the board. For purposes of this subsection:

(a) "Product" means marijuana, marijuana concentrates, usable marijuana, and marijuana-infused products; and

(b) "True value" means market value based on sales at comparable locations in the state of the same or similar product of like quality and character sold under comparable conditions of sale to comparable purchasers. In the absence of such sales of the same or similar product, true value means the value of the product sold as determined by all of the seller's direct and indirect costs attributed to the product.

~~((27))~~ (28) "Unit" means an individually packaged marijuana-infused solid or liquid product meant to be eaten

or swallowed, not to exceed ten servings or one hundred milligrams of active tetrahydrocannabinol (THC), or Delta 9.

AMENDATORY SECTION (Amending WSR 15-11-107, filed 5/20/15, effective 6/20/15)

WAC 314-55-020 Marijuana license qualifications and application process. Each marijuana license application is unique and investigated individually. The board may inquire and request documents regarding all matters in connection with the marijuana license application. The application requirements for a marijuana license include, but are not necessarily limited to, the following:

(1) Per RCW 69.50.331, the board shall send a notice to cities and counties, and may send a notice to tribal governments or port authorities regarding the marijuana license application. The local authority has twenty days to respond with a recommendation to approve or an objection to the applicant, location, or both.

(2) Applicants for a new marijuana producer, processor, or retailer license and those who apply to change their location must display a sign provided by the WSLCB on the outside of the premises to be licensed notifying the public that the premises are subject to an application for a marijuana license. Posting notices must occur within seven days of submitting the location confirmation form for new licenses or the change of location application for existing licensees. The WSLCB may check for compliance with these requirements at its discretion. The sign must:

(a) Not be altered. The licensee must post the sign sent by the WSLCB without changing, adding, or subtracting from the text:

(b) Be conspicuously displayed on, or immediately adjacent to, the premises subject to the application and in the location that is most likely to be seen by the public;

(c) Be of a size sufficient to ensure that it will be readily seen by the public, at a minimum these signs must be eight and one-half by eleven inches;

(d) Be posted within seven business days of the date the notice is sent to the applicant by the WSLCB;

(e) Be posted for fourteen consecutive days.

(3) The WSLCB will use a priority system to determine the order that marijuana retailers are licensed. Within priority categories, applications will not be ranked and will be processed in order of submission.

(a) First priority is given to applicants who:

(i) Applied to the WSLCB for a marijuana retail license prior to July 1, 2014. To meet this qualification, the applicant must provide the WSLCB a copy of the master business license from department of revenue business licensing services showing the applicant applied for a retail marijuana license prior to July 1, 2014;

(ii) Owned or were employed by a collective garden before January 1, 2013. To meet this qualification, the applicant must provide the WSLCB a copy of the master business license from department of revenue business licensing services showing the applicant owned a collective garden prior to January 1, 2013, or a pay stub or tax information indicating that the applicant was employed by a collective garden prior to January 1, 2013;

(iii) Have maintained a state business license and municipal business license, as applicable in the relevant jurisdiction. To meet this qualification, the applicant must provide the WSLCB a copy of the master business license from department of revenue business licensing services and copies of municipal business licenses from January 1, 2013, through the date of application; and

(iv) Have had a history of paying all applicable state taxes and fees. To meet this qualification, the applicant must provide the WSLCB evidence from the department of revenue that the entity is up to date on all applicable state taxes since January 1, 2013, and that they have paid all applicable fees to the WSLCB for all businesses they are engaged in since January 1, 2013.

(b) Second priority is given to applicants who:

(i) Owned or were employed by a collective garden before January 1, 2013. To meet this qualification, the applicant must provide the WSLCB a copy of the master business license from department of revenue business licensing services showing the applicant owned a collective garden prior to January 1, 2013, or a pay stub or tax information indicating that the applicant was employed by a collective garden prior to January 1, 2013;

(ii) Have maintained a state business license and municipal business license, as applicable in the relevant jurisdiction. To meet this qualification, the applicant must provide the WSLCB a copy of the master business license from department of revenue business licensing services and copies of municipal business licenses from January 1, 2013, through the date of application; and

(iii) Have had a history of paying all applicable state taxes and fees. To meet this qualification, the applicant must provide the WSLCB evidence from the department of revenue that the entity is up to date on all applicable state taxes since January 1, 2013, and that they have paid all applicable fees to the WSLCB for all businesses they are engaged in since January 1, 2013, for all businesses they are engaged in since January 1, 2013.

(c) Third priority is given to all other applicants who do not meet the qualifications and experience identified for priority one or two.

(4) All marijuana retail applicants must meet the qualifications required by the WSLCB before they will be granted a license regardless of priority.

(5) The board will verify that the proposed business meets the minimum requirements for the type of marijuana license requested.

~~((3))~~ (6) The board will conduct an investigation of the applicants' criminal history and administrative violation history, per WAC 314-55-040 and 314-55-045.

(a) The criminal history background check will consist of completion of a personal/criminal history form provided by the board and submission of fingerprints to a vendor approved by the board. The applicant will be responsible for paying all fees required by the vendor for fingerprinting. These fingerprints will be submitted to the Washington state patrol and the Federal Bureau of Investigation for comparison to their criminal records. The applicant will be responsible for paying all fees required by the Washington state patrol and the Federal Bureau of Investigation.

(b) Financiers will also be subject to criminal history investigations equivalent to that of the license applicant. Financiers will also be responsible for paying all fees required for the criminal history check. Financiers must meet the three month residency requirement.

~~((4))~~ (7) The board will conduct a financial investigation in order to verify the source of funds used for the acquisition and startup of the business, the applicants' right to the real and personal property, and to verify the true party(ies) of interest.

~~((5))~~ (8) The board may require a demonstration by the applicant that they are familiar with marijuana laws and rules.

~~((6))~~ (9) The board may conduct a final inspection of the proposed licensed business, in order to determine if the applicant has complied with all the requirements of the license requested.

~~((7))~~ (10) Per RCW 69.50.331 (1)(b), all applicants applying for a marijuana license must have resided in the state of Washington for at least ~~((three))~~ six months prior to application for a marijuana license. All partnerships, employee cooperatives, associations, nonprofit corporations, corporations and limited liability companies applying for a marijuana license must be formed in Washington. All members must also meet the ~~((three))~~ six month residency requirement. Managers or agents who manage a licensee's place of business must also meet the ~~((three))~~ six month residency requirement.

~~((8))~~ (11) Submission of an operating plan that demonstrates the applicant is qualified to hold the marijuana license applied for to the satisfaction of the board. The operating plan shall include the following elements in accordance with the applicable standards in the Washington Administrative Code (WAC).

~~((9))~~ (12) As part of the application process, each applicant must submit in a format supplied by the board an operating plan detailing the following as it pertains to the license type being sought. This operating plan must also include a floor plan or site plan drawn to scale which illustrates the entire operation being proposed. The operating plan must include the following information:

Producer	Processor	Retailer
Security	Security	Security
Traceability	Traceability	Traceability
Employee qualifications and training	Employee qualifications and training	Employee qualifications and training
Transportation of product including packaging of product for transportation	Transportation of product	Transportation of product
Destruction of waste product	Destruction of waste product	Destruction of waste product
Description of growing operation including growing media, size of grow space allocated for plant production, space allocated for any other business activity, description of all equipment used in the production process,	Description of the types of products to be processed at this location together with a complete description of all equipment to include all marijuana-infused edible processing facility equipment and solvents, gases,	

Producer	Processor	Retailer
and a list of soil amendments, fertilizers, other crop production aids, or pesticides, utilized in the production process	chemicals and other compounds used to create extracts and for processing of marijuana-infused products	
Testing procedures and protocols	Testing procedures and protocols	
	Description of the types of products to be processed at this location together with a complete description of processing of marijuana-infused products	
	Description of packaging and labeling of products to be processed	
		What array of products are to be sold and how are the products to be displayed to consumers

After obtaining a license, the license holder must notify the board in advance of any substantial change in their operating plan. Depending on the degree of change, prior approval may be required before the change is implemented.

~~((10))~~ (13) Applicants applying for a marijuana license must be current in any tax obligations to the Washington state department of revenue and other state agencies, as an individual or as part of any entity in which they have an ownership interest. Applicants must sign an attestation that, under penalty of denial or loss of licensure, that representation is correct.

~~((11))~~ (14) The issuance or approval of a license shall not be construed as a license for, or an approval of, any violations of local rules or ordinances including, but not limited to: Building and fire codes, zoning ordinances, and business licensing requirements.

~~((12))~~ (15) Upon failure to respond to the board licensing and regulation division's requests for information within the timeline provided, the application may be administratively closed or denial of the application will be sought.

AMENDATORY SECTION (Amending WSR 14-06-108, filed 3/5/14, effective 4/5/14)

WAC 314-55-050 Reasons the board may seek denial, suspension, or cancellation of a marijuana license application or license. Following is a list of reasons the board may deny, suspend, or cancel a marijuana license application or license. Per RCW 69.50.331, the board has broad discretionary authority to approve or deny a marijuana license application for reasons including, but not limited to, the following:

- (1) Failure to meet qualifications or requirements for the specific marijuana producer, processor, or retail license, as outlined in this chapter and chapter 69.50 RCW.
- (2) Failure or refusal to submit information or documentation requested by the board during the evaluation process.

(3) The applicant makes a misrepresentation of fact, or fails to disclose a material fact to the board during the application process or any subsequent investigation after a license has been issued.

(4) Failure to meet the criminal history standards outlined in WAC 314-55-040.

(5) Failure to meet the marijuana law or rule violation history standards outlined in WAC 314-55-045.

(6) The source of funds identified by the applicant to be used for the acquisition, startup and operation of the business is questionable, unverifiable, or determined by the board to be gained in a manner which is in violation by law.

(7) Denies the board or its authorized representative access to any place where a licensed activity takes place or fails to produce any book, record or document required by law or board rule.

(8) Has been denied or had a marijuana license or medical marijuana license suspended or canceled in another state or local jurisdiction.

(9) Where the city, county, tribal government, or port authority has submitted a substantiated objection per the requirements in RCW 69.50.331 (7) and (9).

(10) The board shall not issue a new marijuana license if the proposed licensed business is within one thousand feet of the perimeter of the grounds of any of the following entities. The distance shall be measured as the shortest straight line distance from the property line of the proposed building/business location to the property line of the entities listed below:

- (a) Elementary or secondary school;
- (b) Playground;
- (c) Recreation center or facility;
- (d) Child care center;
- (e) Public park;
- (f) Public transit center;
- (g) Library; or
- (h) Any game arcade (where admission is not restricted to persons age twenty-one or older).

(11)(a) A city or county may by local ordinance permit the licensing of marijuana businesses within one thousand feet but not less than one hundred feet of the facilities listed in subsection (10) of this section except elementary and secondary schools, and playgrounds.

(b) If a licensee applies for a marijuana license at a location less than one thousand feet of a recreation center or facility, child care center, public park, public transit center, library, or game arcade, the licensee must provide the WSLCB with a copy of the local ordinance that describes the distance required by the city or county where the facility will be located.

(12) Has failed to pay taxes or fees required under chapter 69.50 RCW or failed to provide production, processing, inventory, sales and transportation reports to documentation required under this chapter.

~~((12))~~ (13) Failure to submit an attestation that they are current in any tax obligations to the Washington state department of revenue.

~~((13))~~ (14) Has been denied a liquor license or had a liquor license suspended or revoked in this or any other state.

~~((14))~~ (15) The operating plan does not demonstrate, to the satisfaction of the board, the applicant is qualified for a license.

~~((15))~~ (16) Failure to operate in accordance with the board approved operating plan.

~~((16))~~ (17) The board determines the issuance of the license will not be in the best interest of the welfare, health, or safety of the people of the state.

AMENDATORY SECTION (Amending WSR 15-11-107, filed 5/20/15, effective 6/20/15)

WAC 314-55-075 What is a marijuana producer license and what are the requirements and fees related to a marijuana producer license? (1) A marijuana producer license allows the licensee to produce, harvest, trim, dry, cure, and package marijuana into lots for sale at wholesale to marijuana processor licensees and to other marijuana producer licensees. A marijuana producer can also produce and sell marijuana plants, seed, and plant tissue culture to other marijuana producer licensees. Marijuana production must take place within a fully enclosed secure indoor facility or greenhouse with rigid walls, a roof, and doors. Outdoor production may take place in nonrigid greenhouses, other structures, or an expanse of open or cleared ground fully enclosed by a physical barrier. To obscure public view of the premises, outdoor production must be enclosed by a sight obscure wall or fence at least eight feet high. Outdoor producers must meet security requirements described in WAC 314-55-083.

(2) The application fee for a marijuana producer license is two hundred fifty dollars. The applicant is also responsible for paying the fees required by the approved vendor for fingerprint evaluation.

(3) The annual fee for issuance and renewal of a marijuana producer license is one thousand dollars. The board will conduct random criminal history checks at the time of renewal that will require the licensee to submit fingerprints for evaluation from the approved vendor. The licensee will be responsible for all fees required for the criminal history checks.

(4) The board will initially limit the opportunity to apply for a marijuana producer license to a thirty-day calendar window beginning with the effective date of this section. In order for a marijuana producer application license to be considered it must be received no later than thirty days after the effective date of the rules adopted by the board. The board may reopen the marijuana producer application window after the initial evaluation of the applications received and at subsequent times when the board deems necessary.

(5) Any entity and/or principals within any entity are limited to no more than three marijuana producer licenses.

(6) The maximum amount of space for marijuana production ~~((is initially limited to two million square feet, to be increased based on marketplace demand, but not to exceed eight and one-half million square feet without board approval))~~ will be imposed at a later date. Applicants must designate on their operating plan the size category of the production premises and the amount of actual square footage in their premises that will be designated as plant canopy. There are three categories as follows:

- (a) Tier 1 - Less than two thousand square feet;
 - (b) Tier 2 - Two thousand square feet to ten thousand square feet; and
 - (c) Tier 3 - Ten thousand square feet to thirty thousand square feet.
- (7) The board may reduce a licensee's or applicant's square footage designated to plant canopy for the following reasons:
- (a) If the amount of square feet of production of all licensees exceeds the maximum (~~(of two million)~~) square feet the board will reduce the allowed square footage by the same percentage.
 - (b) If fifty percent production space used for plant canopy in the licensee's operating plan is not met by the end of the first year of operation the board may reduce the tier of licensure.
 - (8) If the total amount of square feet of marijuana production exceeds (~~(two million)~~) the maximum square feet, the board reserves the right to reduce all licensee's production by the same percentage or reduce licensee production by one or more tiers by the same percentage.
 - (9) The maximum allowed amount of marijuana on a producer's premises at any time is as follows:
 - (a) Outdoor or greenhouse grows - One and one-quarter of a year's harvest; or
 - (b) Indoor grows - Six months of their annual harvest.

AMENDATORY SECTION (Amending WSR 15-11-107, filed 5/20/15, effective 6/20/15)

WAC 314-55-077 What is a marijuana processor license and what are the requirements and fees related to a marijuana processor license? (1) A marijuana processor license allows the licensee to process, dry, cure, package, and label usable marijuana, marijuana concentrates, and marijuana-infused products for sale at wholesale to marijuana processors and marijuana retailers.

(2) A marijuana processor is allowed to blend tested usable marijuana from multiple lots into a single package for sale to a marijuana retail licensee providing the label requirements for each lot used in the blend are met and the percentage by weight of each lot is also included on the label.

(3) A marijuana processor licensee must obtain approval from the liquor control board for all marijuana-infused products, labeling, and packaging prior to offering these items for sale to a marijuana retailer. The marijuana processor licensee must submit a picture of the product, labeling, and packaging to the liquor control board for approval.

If the liquor control board denies a marijuana-infused product for sale in marijuana retail outlets, the marijuana processor licensee may request an administrative hearing per chapter 34.05 RCW, Administrative Procedure Act.

(4) Marijuana-infused edible products in solid form must meet the following requirements:

- (a) If there is more than one serving in the package, each serving must be packaged individually in childproof packaging (see WAC 314-55-105(7)) and placed in the outer package.
- (b) The label must prominently display the number of servings in the package.

(c) Marijuana-infused solid edible products must be homogenized to ensure uniform disbursement of cannabinoids throughout the product.

(d) All marijuana-infused solid edibles must prominently display on the label "This product contains marijuana."

(5) Marijuana-infused edible products in liquid form must meet the following requirements:

(a) If there is more than one serving in the package, a measuring device must be included in the package with the product.

(b) The label must prominently display the number of servings in the package and the amount of product per serving.

(c) Marijuana-infused liquid edibles must be homogenized to ensure uniform disbursement of cannabinoids throughout the product.

(d) All marijuana-infused liquid edibles must prominently display on the label "This product contains marijuana."

(6) A marijuana processor is limited in the types of food or drinks they may infuse with marijuana. Marijuana-infused products that are especially appealing to children are prohibited. Marijuana-infused edible products such as, but not limited to, gummy candies, lollipops, cotton candy, or brightly colored products, are prohibited.

(a) To reduce the risk to public health, potentially hazardous foods as defined in WAC 246-215-01115 may not be infused with marijuana. Potentially hazardous foods require time-temperature control to keep them safe for human consumption and prevent the growth of pathogenic microorganisms or the production of toxins. Any food that requires refrigeration, freezing, or a hot holding unit to keep it safe for human consumption may not be infused with marijuana.

(b) Other food items that may not be infused with marijuana to be sold in a retail store are:

- (i) Any food that has to be acidified to make it shelf stable;
- (ii) Food items made shelf stable by canning or retorting;
- (iii) Fruit or vegetable juices (this does not include shelf stable concentrates);
- (iv) Fruit or vegetable butters;
- (v) Pumpkin pies, custard pies, or any pies that contain egg;
- (vi) Dairy products of any kind such as butter, cheese, ice cream, or milk; and
- (vii) Dried or cured meats.

(c) Vinegars and oils derived from natural sources may be infused with dried marijuana if all plant material is subsequently removed from the final product. Vinegars and oils may not be infused with any other substance, including herbs and garlic.

(d) Marijuana-infused jams and jellies made from scratch must utilize a standardized recipe in accordance with 21 C.F.R. Part 150, revised as of April 1, 2013.

(e) Per WAC 314-55-104, a marijuana processor may infuse dairy butter or fats derived from natural sources and use that extraction to prepare allowable marijuana-infused solid or liquid products meant to be ingested orally, but the dairy butter or fats derived from natural sources may not be sold as stand-alone products.

(f) The liquor control board may designate other food items that may not be infused with marijuana.

(7) The recipe for any marijuana-infused solid or liquid products meant to be ingested orally must be kept on file at the marijuana processor's licensed premises and made available for inspection by the liquor control board or its designee.

(8) The application fee for a marijuana processor license is two hundred fifty dollars. The applicant is also responsible for paying the fees required by the approved vendor for fingerprint evaluation.

(9) The annual fee for issuance and renewal of a marijuana processor license is one thousand dollars. The board will conduct random criminal history checks at the time of renewal that will require the licensee to submit fingerprints for evaluation from the approved vendor. The licensee will be responsible for all fees required for the criminal history checks.

(10) A marijuana processor producing a marijuana-infused solid or liquid product meant to be ingested orally in a processing facility as required in WAC 314-55-015(10) must pass a processing facility inspection. Ongoing annual processing facility compliance inspections may be required. The liquor control board will contract with the department of agriculture to conduct required processing facility inspections. All costs of inspections are borne by the licensee and the hourly rate for inspection is sixty dollars. A licensee must allow the liquor control board or their designee to conduct physical visits and inspect the processing facility, recipes and required records per WAC 314-55-087 during normal business hours or at any time of apparent operation without advance notice. Failure to pay for the processing facility inspection or to follow the processing facility requirements outlined in this section and WAC 314-55-015 will be sufficient grounds for the board to suspend or revoke a marijuana license.

(11) The board will initially limit the opportunity to apply for a marijuana processor license to a thirty-day calendar window beginning with the effective date of this section. In order for a marijuana processor application license to be considered it must be received no later than thirty days after the effective date of the rules adopted by the board. The board may reopen the marijuana processor application window after the initial evaluation of the applications that are received and processed, and at subsequent times when the board deems necessary.

(12) A currently licensed marijuana producer may submit an application to add a marijuana processor license at the location of their producer license providing they do not already hold three processor licenses.

(13) Any entity and/or principals within any entity are limited to no more than three marijuana processor licenses.

~~((13))~~ (14) Marijuana processor licensees are allowed to have a maximum of six months of their average usable marijuana and six months average of their total production on their licensed premises at any time.

~~((14))~~ (15) A marijuana processor must accept returns of products and sample jars from marijuana retailers for destruction, but is not required to provide refunds to the retailer. It is the responsibility of the retailer to ensure the product or sample jar is returned to the processor.

NEW SECTION

WAC 314-55-080 Medical marijuana endorsement.

Existing retail license holders and applicants for an initial retail license may apply for a medical endorsement.

(1) A medical marijuana endorsement added to a marijuana retail license allows the marijuana retail licensee to:

(a) Sell marijuana for medical use to qualifying patients and designated providers; and

(b) Provide marijuana at no charge, at their discretion, to qualifying patients and designated providers.

(2) To maintain a medical marijuana endorsement in good standing, a marijuana retailer must:

(a) Follow all rules adopted by the department of health regarding marijuana in chapters 246-70, 246-71, and 246-72 WAC;

(b) Have at least one medical marijuana consultant certificate holder on staff with an active credential issued by the department of health under chapter 246-72 WAC;

(c) Prohibit the use of marijuana by anyone, including qualifying patients, at the retail outlet at all times;

(d) Maintain at all times a representative assortment of marijuana products necessary to meet the needs of qualified patients and designated providers. Beginning with the second renewal cycle, not less than twenty-five percent of a marijuana retail outlet's inventory, excluding paraphernalia, must consist of products meeting the requirements of chapter 246-70 WAC. Failure to maintain adequate inventory of such products may result in revocation of the medical marijuana endorsement;

(e) Not market marijuana concentrates, usable marijuana, or marijuana-infused products in a way that make them especially attractive to minors;

(f) Demonstrate the ability to enter qualifying patients and designated providers in the medical marijuana authorization data base established by the department of health;

(g) Agree to enter qualifying patients and designated providers into the data base and issue recognition cards in compliance with the department of health rules found in chapter 246-71 WAC;

(h) Keep copies of the qualifying patient's or designated provider's recognition card or equivalent records to document the validity of tax exempt sales;

(i) Train employees on the following:

(i) Procedures regarding the recognition of valid authorizations and the use of equipment to enter qualifying patients and designated providers into the medical marijuana authorization data base;

(ii) Identification of valid recognition cards; and

(iii) Recognition of strains, varieties, THC concentration, CBD concentration, and THC to CBD ratios of marijuana concentrates, usable marijuana, and marijuana-infused products available for sale when assisting qualifying patients and designated providers at the retail outlet.

(3) A marijuana retailer holding a medical marijuana endorsement may sell products with a THC concentration of 0.3 percent or less. The licensee may also provide these products at no charge to qualifying patients or designated providers who hold a valid recognition card.

(4) **Unlicensed practice of medicine.** No owner, employee, or volunteer of a retail outlet holding a medical marijuana endorsement may:

(a) Offer or undertake to diagnose or cure any human or animal disease, ailment, injury, infirmity, deformity, pain, or other condition, physical or mental, real or imaginary, by use of marijuana products or any other means or instrumentality; or

(b) Recommend or suggest modification or elimination of any course of treatment that does not involve the medical use of marijuana products.

(5) Failure to comply with subsection (4) of this section may result in suspension or revocation of the medical marijuana endorsement.

AMENDATORY SECTION (Amending WSR 13-21-104, filed 10/21/13, effective 11/21/13)

WAC 314-55-081 Who can apply for a marijuana retailer license? (1) The WSLCB may accept applications for marijuana retail licenses at time frames published on its web site at lcb.wa.gov. Using estimated consumption data and population data obtained from the office of financial management (OFM) population data, the liquor control board will determine the maximum number of marijuana retail locations per county at a later date.

~~((The number of retail locations will be determined using a method that distributes the number of locations proportionate to the most populous cities within each county. Locations not assigned to a specific city will be at large. At large locations can be used for unincorporated areas in the county or in cities within the county that have no retail licenses designated. Once the number of locations per city and at large have been identified, the eligible applicants will be selected by lottery in the event the number of applications exceeds the allotted amount for the cities and county. Any lottery conducted by the board will be witnessed by an independent third party.~~

~~(2) The number of marijuana retail licenses determined by the board can be found on the liquor control board web site at www.liq.wa.gov.~~

~~(3)) (2) Any entity and/or principals within any entity are limited to no more than three retail marijuana licenses ((with no multiple location licensee allowed more than thirty-three percent of the allowed licenses in any county or city.~~

~~(4) The board will initially limit the opportunity to apply for a marijuana retailer license to a thirty-day calendar window beginning with the effective date of this section. In order for a marijuana retailer license application to be considered it must be received no later than thirty days after the effective date of the rules adopted by the board. The board may reopen the marijuana retailer application window after the initial evaluation of the applications received and at subsequent times when the board deems necessary)).~~